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Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 97–29 of June 13, 1997

Report to Congress Regarding Conditions in Burma and U.S. Policy Toward Burma

Memorandum for the Secretary of State

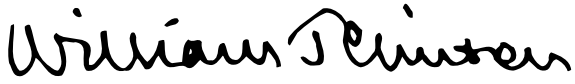
Pursuant to the requirements set forth under the heading ''Policy Toward Burma'' in section 570(d) of the FY 1997 Foreign Operations Appropriations Act, as contained in the Omnibus Consolidated Appropriations Act (P.L. 104–208), a report is required every six months following enactment concerning:

1) progress toward democratization in Burma;

2) progress on improving the quality of life of the Burmese people, including progress on market reforms, living standards, labor standards, use of forced labor in the tourism industry, and environmental quality; and

3) progress made in developing a comprehensive, multilateral strategy to bring democracy to and improve human rights practices and the quality of life in Burma, including the development of a dialogue between the State Law and Order Restoration Council (SLORC) and democratic opposition groups within Burma.

You are hereby authorized and directed to transmit the attached report fulfilling this requirement to the appropriate committees of the Congress and to arrange for publication of this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, June 13, 1997.

[FR Doc. 97–16746
Filed 6–24–97; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–165–AD; Amendment 39–10050; AD 97–13–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300–B2 and –B4 Series Airplanes, Excluding Model A300–600 Series Airplanes, Equipped With General Electric CF6–50 Series Engines or Pratt & Whitney JT9D–59A Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Airbus Model A300–B2 and –B4 series airplanes, that currently requires an inspection to detect discrepancies of a certain thrust reverser control lever spring; an operational test to verify the integrity of the flight inhibition circuit of the thrust reverser system; and either the correction of discrepancies or deactivation of the associated thrust reverser. That AD also provides for an optional terminating action. That AD was prompted by a report that, due to broken and deformed thrust reverser control lever springs, an uncommanded movement of the thrust reverser lever to the unlock position and a ''reverser unlock'' amber warning occurred on one airplane. The actions specified by that AD are intended to detect such broken or deformed control lever springs before they lead to uncommanded deployment of a thrust reverser and consequent reduced controllability of the airplane. This amendment requires installation of the previously optional terminating action in accordance with the latest service information.

DATES: Effective July 30, 1997.

The incorporation by reference of Airbus All Operators Telex (AOT) 78–03, Revision 1, dated July 20, 1994, as listed in the regulations, was approved previously by the Director of the Federal Register as of March 22, 1996 (61 FR 6503, February 21, 1996).

The incorporation by reference of Airbus Service Bulletin A300–78–0015, Revision 2, dated May 24, 1996, as revised by Change Notice 2.A., dated May 24, 1996, as listed in the regulations, is approved by the Director of the Federal Register as of July 30, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2589; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–04–05, amendment 39–9517 (61 FR 6503, February 21, 1996), which is applicable to certain Airbus Model A300–B2 and –B4 series airplanes, was published in the **Federal Register** on March 26, 1997 (62 FR 14365). That action proposed to supersede AD 96–04–05 to continue to require an inspection to detect discrepancies of a certain thrust reverser control lever spring; an operational test to verify the integrity of the flight inhibition circuit of the thrust reverser system; and either the correction of discrepancies or deactivation of the associated thrust reverser. That action also proposed to require replacement of the left and right control levers of the thrust reverser with new control levers equipped with new springs; this replacement would constitute terminating action for the inspection and operational test requirements.

Explanation of Changes Made to the Proposal

The FAA has revised the applicability of the proposed AD to reference exactly which Model A300–B2 and –B4 series airplane are subject to the requirements of the proposed AD. The finds that, as the applicability of the proposed AD is currently worded, operators could misintrepet it. As a result of this change, the FAA finds that Note 2 of the proposed AD is no longer necessary. The FAA has revised the final rule accordingly.

Consideration of Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 21 Airbus Model A300–B2 and –B4 series airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 96–04–05 take approximately 6 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts cost approximately $55 per airplane. Based on these figures, the cost impact of the previously required actions on U.S. operators is estimated to be $8,715, or $415 per airplane.

The new actions that are required by this new AD will take approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,945 per airplane. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $47,145, or $2,245 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and

that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9517 (61 FR 6503, February 21, 1996), and by adding a new airworthiness directive (AD), amendment 39–10050, to read as follows:

97–13–04 Airbus Industrie: Amendment 39–10050. Docket 96–NM–165–AD. Supersedes AD 96–04–05, Amendment 39–9517.

Applicability: Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 series airplanes, equipped with General Electric CF6–50 series engines or Pratt & Whitney JT9D–59A engine; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect broken or deformed thrust reverser control lever springs before they lead to uncommanded deployment of a thrust reverser and consequent reduced controllability of the airplane, accomplish the following:

Restatement of Requirements of AD 96–04–05, Amendment 39–9517

(a) Within 500 flight hours after March 22, 1996 (the effective date AD 96–04–05, amendment 39–9517), perform a mechanical integrity inspection to detect discrepancies of the thrust reverser control lever spring having part number (P/N) A2791294520000, and an operational test to verify the integrity of the flight inhibition circuit of the thrust reverser system, in accordance with Airbus All Operators Telex (AOT) 78–03, Revision 1, dated July 20, 1994.

(1) If no discrepancies are detected, no further action is required by paragraph (a) of this AD.

(2) If the control lever spring is found broken or out of tolerance, prior to further flight, replace it with a new control lever spring or deactivate the associated thrust reverser in accordance with the AOT.

(3) If the flight inhibition circuit of the thrust reverser system fails the operational test, prior to further flight, determine the origin of the malfunction, in accordance with the AOT.

(i) If the origin of the malfunction is identified, prior to further flight, repair the flight inhibition circuit in accordance with the AOT.

(ii) If the origin of the malfunction is not identified, prior to further flight, replace the relay having P/N 125GB or 124GB, and repeat the operational test, in accordance with the AOT. If the malfunction is still present, prior to further flight, inspect and repair the wiring in accordance with the AOT. If the malfunction is still present following the inspection and repair, prior to further flight, deactivate the associated thrust reverser in accordance with the AOT.

New Requirements of this AD

(b) Within 60 days after the effective date of this AD, replace the left and right control levers of the thrust reverser with new control levers equipped with new springs, in accordance with Airbus Service Bulletin A300–78–0015, Revision 2, dated May 24, 1996, as revised by Change Notice 2.A., dated May 24, 1996. After replacement, no further action is required by this AD.

Note 2: Accomplishment of the replacement in accordance with either the original issue or Revision 1 of Airbus Service Bulletin A300–78–0015 is not considered acceptable for compliance with the applicable action specified in this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The actions shall be done in accordance with Airbus All Operators Telex (AOT) 78–03, Revision 1, dated July 20, 1994; and Airbus Service Bulletin A300–78–0015, Revision 2, dated May 24, 1996, as revised by Change Notice 2.A., dated May 24, 1996, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
Change Notice 2.A.	.....	May 24, 1996.
1, 3–16, 19 ...	2	May 24, 1996.
2	1	November 22, 1995.
17, 18	Original	May 17, 1995.

The incorporation by reference of Airbus AOT 78–03, Revision 1, dated July 20, 1994, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of March 22, 1996 (61 FR 6503, February 21, 1996). The incorporation by reference of Airbus Service Bulletin A300–78–0015, Revision 2, dated May 24, 1996, as revised by Change Notice 2.A., dated May 24, 1996, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on July 30, 1997.

Issued in Renton, Washington, on June 13, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–16106 Filed 6–24–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–73–AD; Amendment 39–10055; AD 97–13–08]

RIN 2120–AA64

Airworthiness Directives; de Havilland Model DHC–8–100 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all de Havilland Model DHC–8–100 and –300 series airplanes, that currently requires an inspection to detect discrepancies and damage of the low fuel pressure switch adapter/snubber (located on each engine fuel heater), and replacement, if necessary. That AD also requires an inspection to detect gaps or openings in each nacelle and engine-mounted firewall area, and in certain weather seals in the nacelles; and correction of discrepancies. This amendment requires certain new modifications to the nacelles that will minimize the passage of flammable fluid through the zones of the nacelle of each engine. The actions specified by this AD are intended to prevent the spread of fire through these zones in the event of an explosion during flight, and consequent structural damage to the airplane.

DATES: Effective July 30, 1997.

The incorporation by reference of de Havilland Alert Service Bulletin A8–73–14, Revision B, dated April 24, 1992, as listed in the regulations was approved previously by the Director of the Federal Register as of September 8, 1992 (57 FR 37872, August 21, 1992).

The incorporation by reference of certain other publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Fiesel, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7504; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 92–13–11, amendment 39–8281 (57 FR 37872, August 21, 1992), which is applicable to all de Havilland Model DHC–8–100 and –300 series airplanes, was published in the **Federal Register** on March 18, 1997 (62 FR 12768). That action proposed to continue to require the actions currently required by AD 92–13–11, and to add a requirement that the following actions be performed on each engine nacelle:

- Installation of new angle-gasket assemblies on the firewalls of the lower cowlings, and application of sealant to gaps and openings in these areas;
- Inspection of the upper access panels of each nacelle for the presence and condition of weather sealing, and application or reapplication of sealant, if necessary;
- Inspection of the firewall areas for gaps and openings at lap joints, between bolts, and at carry-through fittings and grommets; and the application of sealant, if necessary;
- Modification of the nacelle by replacing Camloc receptacles made of silicon bronze with receptacles of stainless steel;
- Application of additional sealant to the firewall areas after the Camloc receptacles have been replaced; and
- Replacement of the seals on the cowling doors with improved seals.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Support for the Proposal

The commenter supports the proposed rule. In addition, the commenter urges the FAA to mandate a rapid timeline for the rework of the compartment seals, and suggests that the FAA consider whether the optional terminating action for the low fuel pressure switch adapter/snubber should be required. The commenter suggests that the FAA should consider a warning system for identifying that a failure of the system and a potential hazard exists in the event the terminating action remains optional.

The FAA finds that the proposed compliance times specified in this AD were determined to be appropriate in light of the safety implications addressed by this AD. However, the FAA will consider the commenter's suggestions and, if warranted, may consider additional rulemaking to address these suggestions. No changes have been made to this final rule in response to the commenter's requests.

Correction to the Proposal

The FAA has become aware of a typographical error that appeared in paragraph (f) of the proposal. The modification number specified in that paragraph appeared incorrectly as ''Modification No. 8/1996.'' Paragraph (f) of this final rule has been revised to correctly specify that modification number as ''Modification No. 8/1966.''

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 100 de Havilland Model DHC–8–100 and –300 series airplanes of U.S. registry that will be affected by this AD.

Each inspection of the low fuel pressure switch adapter/snubber that is currently required by AD 92–13–11 takes approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this currently required inspection on U.S. operators is estimated to be $24,000, or $240 per airplane, per inspection.

The inspection for gaps or openings in each nacelle, engine-mounted firewall area, and certain nacelle weather seals that is currently required by AD 92–13–11 takes approximately 12 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this currently required inspection on

U.S. operators is estimated to be $72,000, or $720 per airplane.

The installation of new angle-gasket assemblies that is required by this new AD will take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of this installation on U.S. operators is estimated to be $12,000, or $120 per airplane.

The inspection of the upper access panels and firewalls of both nacelles, and the application of labels, that is required by this new AD will take approximately 7 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $43 per airplane. Based on these figures, the cost impact of this inspection and application of labels on U.S. operators is estimated to be $46,300, or $463 per airplane.

The replacement of the Camloc receptacles with improved receptacles that is required by this new AD will take approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $15 per airplane. Based on these figures, the cost impact of this replacement on U.S. operators is estimated to be $49,500, or $495 per airplane.

The inspection and application of additional sealant to the firewalls of the nacelles that is required by this new AD will take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. The cost of required parts is estimated to be minimal. Based on these figures, the cost impact of this inspection and application of sealant on U.S. operators is estimated to be $24,000, or $240 per airplane.

The replacement of the seals on the cowling doors that is required by this new AD will take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided at no cost to operators, or will cost $1,270, depending on the kit required. Based on these figures, the cost impact of this replacement on U.S. operators is estimated to be between $24,000 and $151,000, or between $240 and $1,510 per airplane, depending on the kit required.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8281 (57 FR 37872, August 21, 1992), and by adding a new airworthiness directive (AD), amendment 39–10055, to read as follows:

97–13–08 De Havilland, Inc.: Amendment 39–10055. Docket 96–NM–73–AD. Supersedes AD 92–13–11, Amendment 39–8281.

Applicability: All Model DHC–8–100 and –300 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the spread of fire through the zones of each nacelle, in the event of an explosion during flight, and consequent structural damage to the airplane, accomplish the following:

Note 2: The requirements of paragraphs (a) and (b) of this AD are restatements of the same paragraphs that appeared in AD 92–13–11, amendment 39–8281. These paragraphs require no additional action by operators who have already completed the specified actions.

(a) For airplanes having serial numbers 3 through 248, inclusive, on which Modification No. 8/1208 has not yet been accomplished, accomplish the following:

(1) Within 30 days after September 8, 1992 (the effective date of AD 92–13–11, amendment 39–8281), remove and inspect the low fuel pressure switch adapter/snubber located on each engine fuel heater for damage to threads, indication of over-torque, and for proper seating, in accordance with the accomplishment instructions of de Havilland Alert Service Bulletin A8–73–14, Revision B, dated April 24, 1992. If the adapter/snubber is damaged or if evidence of over-torque is present, prior to further flight, replace the adapter/snubber with a serviceable part, in accordance with that service bulletin.

(2) Thereafter, at any time in which the low fuel pressure switch adapter/snubber assembly is removed, accomplish the inspection of the assembly as described in paragraph (a)(1) of this AD.

(3) Installation of Modification 8/1208, in accordance with de Havilland Service Bulletin 8–28–15, Revision A, dated April 17, 1992, constitutes terminating action for the inspections required by paragraphs (a)(1) and (a)(2) of this AD.

(b) For all Model DHC–8–100 and –300 series airplanes: Within 30 days after September 8, 1992 (the effective date of AD 92–13–11, amendment 39–8281), accomplish the procedures specified in paragraphs (b)(1) and (b)(2) of this AD.

(1) Inspect the nacelle vertical firewall section, firewall extension, and engine mounted firewall (reference: Maintenance Manual section 71–30–00) for gaps and openings that could permit flammable fluid to pass through. Gaps and openings may be found at lap joints, between bolts, and at carry-through fittings and grommets. If gaps are found, prior to further flight, seal the gaps using PR812, Pro-Seal 700, or other approved firewall sealants (reference: Maintenance Manual section 20–21–20). Allow the sealant

to cure for at least 4 hours prior to further flight.

(2) Inspect access panels 419AT and 429AT as specified in DHC–8 Maintenance Manual [section 40–10, pages 12 and 14 (reference: Illustrated Parts Catalog 54–30–00, Figure 5, Items 410 and 420)] for the presence and condition of the weather seal in the gap between the panels and the adjacent structure. If the gap is not sealed, prior to further flight, seal the panels using PR1422, PR1435, or other sealant specified in the DHC–8 Maintenance Manual, section 20–21–16. A release agent, applied prior to sealing, also may be used as specified in DHC–8 Maintenance Manual, section 20–21–19. Allow the sealant or release agent to cure for at least 4 hours, prior to further flight.

(c) For airplanes having serial numbers 3 through 137, inclusive, on which Modification No. 8/1126 has not been installed: Within 1 year after the effective date of this AD, seal the firewall of the lower cowling of each engine by installing angle-gasket assemblies and applying sealant, in accordance with de Havilland Service Bulletin 8–54–12, dated January 27, 1989.

(d) For airplanes having serial numbers 003 through 331, inclusive, on which Modification No. 8/1885 has not been installed: Within 1 year after the effective date of this AD, accomplish the procedures specified in paragraphs (d)(1), (d)(2), and (d)(3) of this AD in accordance with de Havilland Service Bulletin S.B. 8–54–25, Revision 'A,' dated July 29, 1994.

(1) Inspect the vertical firewall section, firewall extension, and engine-mounted firewall of the upper structure of each nacelle, including the lap joints between bolts and at carry-through fittings and grommets, to detect gaps and openings through which flammable fluid could pass, in accordance with the service bulletin. If any gap or opening is detected, prior to further flight, seal the gap or opening, in accordance with the service bulletin.

(2) Inspect the upper access panels of each nacelle to detect the presence and condition of sealant in any gap between each panel and its adjacent structure, in accordance with the service bulletin. If there is no sealant or the sealant is discrepant, prior to further flight, apply or replace sealant, as applicable, in accordance with the service bulletin.

(3) Apply exterior labels and protective coatings to each access panel of the left and right nacelle in accordance with the service bulletin.

(e) For airplanes having serial numbers 003 through 332, inclusive, on which Modification No. 8/1887 has not been installed: Within 1 year after the effective date of this AD, replace the Camloc receptacles in each nacelle with stainless steel receptacles, and apply additional sealant to the firewall of each nacelle, in accordance with de Havilland Service Bulletin S.B. 8–54–30, Revision 'B,' dated February 5, 1993.

(f) For airplanes having serial numbers 003 through 357, inclusive, on which Modification No. 8/1966 has not been installed: Within 1 year after the effective date of this AD, inspect the forward and rearward faces of the firewall, firewall extension, and engine mounted firewall of the lower structure of each nacelle for any gap or opening at lap joints, between bolts, and at carry-through fittings and grommets through which flammable fluid could pass, in accordance with de Havilland Service Bulletin S.B. 8–54–31, dated March 8, 1994. If any gap or opening is detected, prior to further flight, apply sealant in accordance with the service bulletin.

(g) For airplanes having serial numbers 003 through 369, inclusive, on which Modification No. 8/2001 has not been installed: Within 1 year after the effective date of this AD, replace the existing seals on the cowling doors of each nacelle with improved seals, in accordance with de Havilland Service Bulletin S.B. 8–71–19, Revision 'B,' dated February 24, 1995.

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(i) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(j) The actions shall be done in accordance with de Havilland Alert Service Bulletin A8–73–14, Revision B, dated April 24, 1992; de Havilland Service Bulletin 8–54–12, dated January 27, 1989; de Havilland Service Bulletin S.B. 8–54–25, Revision 'A', dated July 29, 1994; de Havilland Service Bulletin S.B. 8–54–30, Revision 'B', dated February 5, 1993; de Havilland Service Bulletin S.B. 8–54–31, dated March 8, 1994; and de Havilland Service Bulletin S.B. 8–71–19, Revision 'B', dated February 24, 1995. The incorporation by reference of de Havilland Alert Service Bulletin A8–73–14, Revision B, dated April 24, 1992, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of September 8, 1992 (57 FR 37872, August 21, 1992). The incorporation by reference of the other publications listed in the regulations was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(k) This amendment becomes effective on July 30, 1997.

Issued in Renton, Washington, on June 16, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–16270 Filed 6–24–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–SW–35–AD; Amendment 39–10056; AD 97–13–09]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Helicopter Systems Model MD–900 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to McDonnell Douglas Helicopter Systems (MDHS) Model MD–900 helicopters. This action requires applying specified serial numbers to the left and right vertical stabilizer control system (VSCS) bellcrank assemblies, the forward and aft deck-fitting assemblies, and the mid-forward and mid-aft truss strut assemblies; and establishes new life limits for the non-rotating swashplate assembly, the collective drive link assembly, and the self-aligning, spherical/slider main rotor bearing. This amendment is prompted by additional manufacturer's analysis which indicates a need for the reduction of the life limit on several parts and the addition of non-serialized parts to the life-limited parts list. The actions specified in this AD are intended to establish a life limit for various parts and reduce the current life limit on other parts.

DATES: Effective July 10, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of July 10, 1997.

Comments for inclusion in the rules docket must be received on or before August 25, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–35–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from McDonnell Douglas Helicopter Systems, Technical Publications, Bldg. 530/B11, 5000 E. McDowell Road, Mesa, Arizona 85205–9797. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Greg DiLibero, Aerospace Engineer, Airframe Branch, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California 90712, telephone (562) 627–5231, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD that is applicable to MDHS Model MD–900 helicopters. For Model MD–900 helicopters with serial numbers (S/N) 0002 through 0012, this action requires applying serial numbers to the mid-forward truss assembly, part number (P/N) 900F2401200–102, and the forward and aft deck-fitting assemblies, P/N 900F2401500–103 and P/N 900F2401600–103. For Model MD–900 helicopters with S/N 0002 through 0048, this action requires applying S/N's to the VSCS bellcrank assemblies, part number (P/N) 900F2341712–101 or P/N 900FP341712–103, and the mid-aft truss strut assembly, P/N 900F2401300–103. For all Model MD–900 helicopters, this action reduces the life limits for the non-rotating swashplate assembly, P/N 900C2010192–105, –107, –109, or –111, from 8,300 hours time-in-service (TIS) to 554 hours TIS; the collective drive link assembly, P/N 900C2010207–101, from 3,900 hours TIS to 1,480 hours TIS; the self-aligning, spherical/slider main rotor bearing, P/N 900C3010042–103, from 2,100 hours TIS to 480 hours TIS; and the VSCS bellcrank assembly, P/N 900FP341712–103, and bellcrank arm, P/N 900F2341713–101, (used in the VSCS bellcrank assembly, P/N 900F2341712–101) from no life limit to 2,700 hours TIS. This amendment is prompted by additional manufacturer's analysis which indicates a need for the reduction of the life limit on several parts and the addition of non-serialized parts to the life-limited parts list. The actions specified in this AD are intended to establish a life limit for various parts and reduce the current life limit on other parts.

The FAA has reviewed McDonnell Douglas Helicopter Systems Service Bulletin No. SB900–039, Revision 2, dated March 12, 1997, which describes procedures for applying the serial numbers to the life-limited parts.

Since an unsafe condition has been identified that is likely to exist or develop on other MDHS Model MD–900 helicopters of the same type design, this AD is being issued to establish a life limit for various parts and reduce the current life limit on other parts. This AD requires applying specified serial numbers to the left and right VSCS bellcrank assemblies, P/N 900F2341712–101 or P/N 900FP341712–103; to the mid-forward and mid-aft truss strut assemblies, P/N 900F2401200–102 and P/N 900F2401300–103; and to the forward and aft deck-fitting assemblies, P/N 900F2401500–103 and P/N 900F2401600–103. This AD also reduces the life limits for the non-rotating swashplate assembly, P/N 900C2010192–105, –107, –109, or –111, from 8,300 hours TIS to 554 hours TIS; the collective drive link assembly, P/N 900C2010207–101, from 3,900 hours TIS to 1,480 hours TIS; the self-aligning, spherical/slider main rotor bearing, P/N 900C3010042–103, from 2,100 hours TIS to 480 hours TIS; and the VSCS bellcrank assembly, P/N 900FP341712–103, and the bellcrank arm, P/N 900F2341713–101, (used in the VSCS bellcrank assembly, P/N 900F2341712–101) from no life limit to 2,700 hours TIS. The serial numbers for the VSCS bellcrank assemblies, the mid-forward and mid-aft truss assemblies, and the forward and aft deck-fitting assemblies are specified in and are required to be accomplished in accordance with the service bulletin described previously. The serial numbers specified in the service bulletin shall be applied adjacent to the existing P/N's. Some Model MD–900 helicopters that are currently in service are equipped with helicopter control system parts that are approaching the new, lower life limits. Failure of any of these parts could result in loss of control of the helicopter. Due to the criticality of the components of the helicopter control system, this AD is being issued in the form of an immediately-adopted final rule with request for comments.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 96-SW–35-AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared

and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 97–13–09 McDonnell Douglas Helicopter Systems: Amendment 39–10056. Docket No. 96–SW–35–AD.

Applicability: Model MD–900 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To establish a life limit for various parts and reduce the current life limit on other parts, accomplish the following:

(a) Within 100 hours time-in-service (TIS) after the effective date of this AD:

(1) For Model MD–900 helicopters with serial number (S/N) 0002 through 0012, apply serial numbers to the mid-forward truss assembly, P/N 900F2401200–102, and the forward and aft deck-fitting assemblies, P/N 900F2401500–103 and P/N 900F2401600–103.

(2) For Model MD–900 helicopters with S/N 0002 through 0048, apply S/N's to the left and right vertical stabilizer control system (VSCS) bellcrank assemblies, P/N 900F2341712–101 or P/N 900FP341712–103, and the mid-aft truss strut assembly, P/N 900F2401300–103.

(3) Apply the S/N's as specified in paragraphs (a)(1) and (a)(2) of this AD adjacent to the existing P/N's, and in accordance with the Accomplishment Instructions of McDonnell Douglas Helicopter Systems Service Bulletin No. SB900–039, Revision 2, dated March 12, 1997.

(b) Before further flight, remove from service:

(1) The non-rotating swashplate assembly, P/N 900C2010192–105, –107, –109, or –111, on or before attaining 554 hours TIS.

(2) The collective drive link assembly, P/N 900C2010207–101, on or before attaining 1,480 hours TIS.

(3) The self-aligning, spherical/slider main rotor bearing, P/N 900C3010042–103, on or before attaining 480 hours TIS.

(4) The VSCS bellcrank assembly, P/N 900FP341712–103, and bellcrank arm, P/N 900F2341713–101 (used in the VSCS bellcrank assembly, P/N 900F2341712–101), on or before attaining 2,700 hours TIS.

(c) This AD revises the Airworthiness Limitations section of the maintenance manual by establishing new retirement lives for these parts.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(f) The modification shall be done in accordance with McDonnell Douglas Helicopter Systems Bulletin No. SB900–039, Revision 2, dated March 12, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Helicopter Systems, Technical Publications, Bldg. 530/B11, 5000 E. McDowell Road, Mesa, Arizona 85205–9797. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(g) This amendment becomes effective on July 10, 1997.

Issued in Fort Worth, Texas, on June 17, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–16568 Filed 6–24–97; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Alternative Method of Compliance With Requirements for Delivery and Retention of Monthly, Confirmation and Purchase-and-Sale Statements; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Correction to an Advisory.

SUMMARY: This document contains a correction to the Advisory that was published on Tuesday, June 10, 1997 (62 FR 31507). The Advisory related to delivery by futures commission merchants (''FCMs'') of confirmation, purchase-and-sale and monthly statements by means of electronic media and related recordkeeping requirements. The correction clarifies potential confusion in connection with the Commodity Futures Trading Commission's (''Commission's'') definition of ''eligible customer'' for purposes of the Advisory.

EFFECTIVE DATE: June 25, 1997.

FOR FURTHER INFORMATION CONTACT: Susan C. Ervin, Deputy Director/Chief Counsel; Lawrence B. Patent, Associate Chief Counsel; or Natalie A. Markman, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581. Telephone: (202) 418–5450.

SUPPLEMENTARY INFORMATION: On June 10, 1997, the Commission published an Advisory issuing guidance to FCMs concerning alternative methods of compliance by FCMs with requirements in Commission Rules 1.33 and 1.46 pertaining to the delivery of specified customer account documents and requirements for recordkeeping in Commission Rule 1.31. The Commission defined an ''eligible customer,'' for purposes of the Advisory, to include any person who is an ''institutional customer,'' as ''currently'' defined by Federal Reserve Board (''FRB'') Rule 225.2(g).[1] The Advisory included a list of the persons included in the Rule

[1] 12 CFR 225.2(g) (1996).

225.2(g) definition [2] but, in an effort to eliminate any possible confusion, the Commission makes the following correction: In the **Federal Register** published June 10, 1997, on page 31509, in the third column, in paragraph (2), replace ''as currently defined by FRB Rule 225.2(g)'' with ''as defined by FRB Rule 225.2(g) on April 20, 1997.''

Issued in Washington, D.C. on June 20, 1997 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–16625 Filed 6–24–97; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 310, 314, and 600

[Docket No. 96N–0108]

Postmarketing Expedited Adverse Experience Reporting for Human Drug and Licensed Biological Products; Increased Frequency Reports

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations on expedited reporting of postmarketing adverse experiences to revoke the requirement for increased frequency reports as expedited reports for human drug and licensed biological products. This action, which is part of the President's regulatory reinvention initiative, is based on FDA's determination that expedited increased frequency reports have not contributed to the timely identification of safety problems requiring regulatory action and are no longer necessary for FDA surveillance of postmarketing adverse experiences. This action is intended to streamline postmarketing expedited reporting of adverse experiences for human drug and licensed biological products. This action will not affect the requirement for expedited reporting of all serious, unexpected adverse experiences.

EFFECTIVE DATE: July 25, 1997.

FOR FURTHER INFORMATION CONTACT:

For information concerning human drug products: Audrey A. Thomas, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5625.

For information concerning human licensed biological products: Marcel E. Salive, Center for Biologics Evaluation and Research (HFM–220), Food and Drug Administration, 1401 Rockville Pike, suite 200S, Rockville, MD 20852–1448, 301–827–3974.

SUPPLEMENTARY INFORMATION:

I. Background

Under current §§ 310.305(c)(4), 314.80(c)(1)(ii) and (c)(1)(iii), and 600.80(c)(1)(ii) and (c)(1)(iii) (21 CFR 310.305(c)(4), 314.80(c)(1)(ii) and (c)(1)(iii), and 600.80(c)(1)(ii) and (c)(1)(iii)), applicants, manufacturers, packers, and distributors, including licensed manufacturers and other manufacturers of biological products, are required to review periodically the frequency of reports of adverse experiences that are both serious and expected and reports of therapeutic failure (lack of effect), regardless of source, and report any significant increase in frequency as soon as possible but in any case within 15 working days of determining that a significant increase in frequency exists. An increased frequency exists if the adjusted reporting for the reporting interval is at least two times greater than the adjusted reporting for the comparison interval (previous reporting interval). These regulations were issued by FDA to ensure that applicants, manufacturers, packers, and distributors, including licensed manufacturers and other manufacturers of biological products, identify increases in the incidence of serious, labeled adverse experiences that are not anticipated from premarketing clinical trials and that occur with changes in medical practice, such as using a drug or biological product in higher risk populations, at higher dosages, or concomitantly with other drugs or biological products causing interactions.

In the **Federal Register** of October 28, 1996 (61 FR 55602), FDA proposed to amend its postmarketing expedited adverse experience reporting regulations to revoke the requirement for expedited increased frequency reports in §§ 310.305(c)(4), 314.80(c)(1)(ii) and (c)(1)(iii), and 600.80(c)(1)(ii) and (c)(1)(iii), and to revoke the definition of ''increased frequency'' in §§ 310.305(b)(5), 314.80(a), and 600.80(a). As explained in the proposal, FDA determined that increased frequency reports rarely prompted regulatory action during the time that the agency received such reports, and the reports proved to be of little value in identifying increased incidences of serious, labeled experiences. This action does not affect the requirement for expedited reporting of all serious, unexpected adverse experiences. Applicants, manufacturers, packers, and distributors, including licensed manufacturers and other manufacturers of biological products, must continue to submit 15-day Alert reports and followup reports for serious, unexpected events, as required under §§ 310.305(c), 314.80(c), 314.98, and 600.80(c).

II. Rationale

Several factors have contributed to FDA's decision to revoke the requirement for expedited increased frequency reports. Key factors include: (1) Safety problems that have been the subject of these reports could have been detected in other safety reports, (2) the reliability of increased frequency reports is limited, and (3) this action is consistent with recent international efforts to harmonize reporting requirements. These factors are discussed in more detail in the following paragraphs.

Only a small number of drug/biological product safety problems where expedited increased frequency reports played a role in risk assessment have resulted in regulatory action. In each case, the safety problems could have been detected in other safety reports required by FDA such as periodic adverse experience reports, field alert reports, or annual reports. FDA has found that expedited postmarketing adverse experience reporting systems are best used to identify rare, unexpected adverse drug reactions such as aplastic anemia, hepatic necrosis, renal failure, or anaphylaxis that were not detected in preclinical studies or clinical trials during drug development.

The reliability of increased frequency reports is limited because of the difficulty in accurately estimating incidence rates. Increased frequency information is derived from incidence rates, which are estimated by dividing

[2] The following were ''institutional customers'' under the FRB rule:

(1) a bank (acting in an individual or fiduciary capacity), savings and loan association, insurance company, investment company registered under the ICA, or corporation, partnership, proprietorship, organization or institutional entity with a net worth exceeding $1,000,000;

(2) an employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, insurance company or investment adviser registered under the Investment Advisers Act of 1940;

(3) a natural person whose net worth (or joint net worth with a spouse) exceeds $1,000,000;

(4) a broker-dealer or option trader registered under the SEA, or other securities, investment or banking professional; or

(5) an entity whose equity owners are institutional customers.

the number of adverse experiences by the number of persons exposed to a drug or biological product. Reporters compare incidence rates estimated for the reporting interval with rates estimated for the previous reporting interval. However, a number of uncertainties contribute to the unreliability of incidence rates. For example, health care providers do not report all adverse experiences or may report them to the sponsor many months after they became aware of them. The number of persons exposed to a drug or biological product during a reporting period is not precisely known; it is only estimated based on sales or production data. The lag time between production or sales by the manufacturer and consumption by patients can vary, adding further distortion to comparisons between reporting periods. Finally, because of incomplete data and the uncertainty caused by the underlying illness, indication, or other drug exposures, adverse experience reports may be attributed to a drug or biological product even though it may not necessarily have caused the adverse experience.

FDA's decision to revoke the requirement for expedited increased frequency reports is also consistent with recent international harmonization initiatives. In the **Federal Register** of October 27, 1994 (59 FR 54046), FDA proposed amending, among other things, its regulations for periodic postmarketing reporting of adverse experiences for human drug and licensed biological products based on recommendations developed by the World Health Organization's Council for International Organizations of Medical Sciences (CIOMS) Working Group II. The revised regulations would include a section for overall safety evaluation that would contain a critical analysis and full discussion of the safety information provided in the periodic report as it pertains to a number of matters, including increased frequencies of known toxicity. Recently, the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) developed, based on the CIOMS II proposals, a final guideline for periodic reporting entitled ''Clinical Safety Data Management: Periodic Safety Update Reports for Marketed Drugs.'' The guideline, published in the **Federal Register** of May 19, 1997 (62 FR 27470), recommends that the overall safety evaluation section of periodic safety update reports highlight any new information on increased frequencies of known adverse drug reactions, including comments on whether it is believed that these data reflect a meaningful change in adverse drug reaction occurrences. Under this guideline, regulatory authorities will be able to obtain reports of increased frequencies from periodic reports. FDA plans to finalize its proposed amendments to the periodic postmarketing safety reporting regulations in a future issue of the **Federal Register**. These amendments will be based on the CIOMS and ICH recommendations.

III. Comments on the Proposed Rule

The agency received five comments from industry and the public. All of the comments supported FDA's decision to revoke the requirement for expedited increased frequency reports, stating that these reports have not contributed to timely identification of safety problems requiring regulatory action, nor to information for physicians or patient care. All of the comments expressed the belief that because serious and unexpected reports of adverse experiences are investigated and reported under the 15-day Alert report requirement and because overall safety and adverse experience data are summarized in periodic reports, FDA's action to revoke the requirement of increased frequency reports will result in the elimination of resource intensive procedures and provide industry with more time to focus on evaluation of serious and unexpected adverse drug experiences and other important medical product events.

IV. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Paperwork Reduction Act of 1995

This final rule does not require information collections and, thus, is not subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

VI. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this final rule will simplify and streamline current requirements, the Commissioner of Food and Drugs certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

List of Subjects

21 CFR Part 310

Administrative practice and procedure, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

21 CFR Part 600

Biologics, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 310, 314, and 600 are amended as follows:

PART 310—NEW DRUGS

1. The authority citation for 21 CFR part 310 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 512–516, 520, 601(a), 701, 704, 705, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 360b–360f, 360j, 361(a), 371, 374, 375, 379e); secs. 215, 301, 302(a), 351, 354–360F of the Public Health Service Act (42 U.S.C. 216, 241, 242(a), 262, 263b–263n).

2. Section 310.305 is amended by revising paragraph (a), by removing paragraph (b)(5), by removing paragraph (c)(4), by redesignating paragraphs (c)(5) and (c)(6) as paragraphs (c)(4) and (c)(5),

respectively, by revising the first sentence of newly redesignated paragraph (c)(4), and by revising paragraph (f)(1) to read as follows:

§ 310.305 Records and reports concerning adverse drug experiences on marketed prescription drugs for human use without approved new drug applications.

(a) *Scope.* FDA is requiring manufacturers, packers, and distributors of marketed prescription drug products that are not the subject of an approved new drug or abbreviated new drug application to establish and maintain records and make reports to FDA of all serious, unexpected adverse drug experiences associated with the use of their drug products.

* * * * *

(c) * * *

(4) To avoid unnecessary duplication in the submission of, and followup to, reports required in this section, a packer's or distributor's obligations may be met by submission of all reports of serious adverse drug experiences to the manufacturer of the drug product. * * *

* * * * *

(f) *Recordkeeping.* (1) Each manufacturer, packer, and distributor shall maintain for a period of 10 years records of all adverse drug experiences required under this section to be reported, including raw data and any correspondence relating to the adverse drug experiences, and the records required to be maintained under paragraph (c)(4) of this section.

* * * * *

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

3. The authority citation for 21 CFR part 314 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701, 704, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371, 374, 379e).

4. Section 314.80 is amended by removing the definition for *Increased frequency* in paragraph (a), by removing paragraph (c)(1)(ii), by redesignating paragraphs (c)(1)(iii) and (c)(1)(iv) as paragraphs (c)(1)(ii) and (c)(1)(iii), respectively, by revising the first two sentences in the introductory text of newly redesignated paragraph (c)(1)(ii), by removing the last sentence in paragraph (d)(1), by revising paragraph (f)(1), and by revising the last sentence in paragraph (l) to read as follows:

§ 314.80 Postmarketing reporting of adverse drug experiences.

* * * * *

(c) * * *

(1) * * *

(ii) The requirements of paragraph (c)(1)(i) of this section, concerning the submission of 15-day Alert reports, shall also apply to any person (other than the applicant) whose name appears on the label of an approved drug product as a manufacturer, packer, or distributor. However, to avoid unnecessary duplication in the submission to FDA of, and followup to, reports required by paragraph (c)(1)(i) of this section, obligations of a nonapplicant may be met by submission of all reports of serious adverse drug experiences to the applicant. * * *

* * * * *

(f) *Reporting Form FDA–1639.* (1) Except as provided in paragraph (f)(3) of this section, the applicant shall complete a Form FDA–1639 (Adverse Reaction Report) for each report of an adverse drug experience.

* * * * *

(l) * * * For purposes of this provision, the term ''applicant'' also includes any person reporting under paragraph (c)(1)(ii) of this section.

* * * * *

PART 600—BIOLOGICAL PRODUCTS: GENERAL

5. The authority citation for 21 CFR part 600 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 519, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 360i, 371, 374); secs. 215, 351, 352, 353, 361, 2125 of the Public Health Service Act (42 U.S.C. 216, 262, 263, 263a, 264, 300aa-25).

6. Section 600.80 is amended by removing the definition for *Increased frequency* in paragraph (a), by removing paragraph (c)(1)(ii), by redesignating paragraphs (c)(1)(iii) and (c)(1)(iv) as paragraphs (c)(1)(ii) and (c)(1)(iii), respectively, by revising the first sentence in the introductory text of newly redesignated paragraph (c)(1)(ii), by removing the last sentence in paragraph (d)(1), by revising paragraph (f)(1), and by revising the last sentence in paragraph (m) to read as follows:

§ 600.80 Postmarketing reporting of adverse experiences.

* * * * *

(c) * * *

(1) * * *

(ii) The requirements of paragraph (c)(1)(i) of this section, concerning the submission of 15-day Alert reports, shall also apply to any person other than the licensed manufacturer of the final product whose name appears on the label of a licensed biological product as a manufacturer, packer, distributor, shared manufacturer, joint manufacturer, or any other participant involved in divided manufacturing.

* * *

* * * * *

(f) *Reporting forms.* (1) Except as provided in paragraph (f)(3) of this section, the licensed manufacturer shall complete the reporting form designated by FDA (FDA–3500A, or, for vaccines, a VAERS form) for each report of an adverse experience.

* * * * *

(m) * * * For purposes of this provision, this paragraph also includes any person reporting under paragraph (c)(1)(ii) of this section.

Dated: June 19, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–16684 Filed 6–20–97; 3:54 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Gentamicin Sulfate Oral Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Med-Pharmex, Inc. The ANADA provides for the use of gentamicin sulfate oral solution for the control and treatment of colibacillosis in weanling swine and for the control and treatment of swine dysentery caused by *Treponema hyodysenteriae*.

EFFECTIVE DATE: June 25, 1997.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Med-Pharmex, Inc., 2727 Thompson Creek Rd., Pomona, CA 91767, has filed ANADA 200–190, which provides for the control and treatment of colibacillosis in weanling swine caused by strains of *Escherichia coli* sensitive to gentamicin, and for the control and treatment of swine dysentery associated with *T. hyodysenteriae*.

ANADA 200–190 is approved as a generic copy of Schering-Plough Animal Health's Garasin® (gentamicin sulfate) oral solution in NADA 91–191. The ANADA is approved as of May 27, 1997, and the regulations are amended in 21 CFR 520.1044a(b) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.1044a [Amended]

2. Section 520.1044a *Gentamicin sulfate oral solution* is amended in paragraph (b) by removing ''No. 000061'' and adding in its place ''Nos. 000061 and 051259''.

Dated: June 12, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–16686 Filed 6–24–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 137–97]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is exempting a Privacy Act system of records from subsections (c) (3) and (4); (d); (e) (1), (2), (3), (5) and (8); and (g) of the Privacy Act, 5 U.S.C. 552a. This system of records is maintained by the Immigration and Naturalization Service (INS) and is entitled ''Office of Internal Audit Investigations Index and Records, JUSTICE/INS–002.'' Information in this system relates to official Federal investigations and law enforcement matters of the Office of Internal Audit of the INS, pursuant to the Inspector General Act of 1978, 5 U.S.C. App., as amended by the Inspector General Act amendments of 1988. The exemptions are necessary to avoid interference with certain internal law enforcement functions of the INS for which records falling within the scope of subsections (j)(2) and (k)(2) may be generated. Specifically, the exemptions are necessary to prevent subjects of investigations from frustrating the investigatory process; to preclude the disclosure of investigative techniques; to protect the identities and physical safety of confidential informants and of law enforcement personnel; to ensure OIA's ability to obtain information from information sources; and to protect the privacy of third parties.

EFFECTIVE DATE: June 25, 1997.

FOR FURTHER INFORMATION CONTACT: Patricia E. Neely—202–616–0178.

SUPPLEMENTARY INFORMATION: On March 7, 1997 (62 FR 10495) a proposed rule was published in the **Federal Register** with an invitation to comment. No comments were received.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have ''a significant economic impact on a substantial number of small entities.''

List of Subjects in Part 16

Administrative Practices and Procedures, Courts, Freedom of Information Act, Government in the Sunshine Act, Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, 28 CFR part 16 is amended as set forth below.

Dated: June 6, 1997.

Stephen R. Colgate,

Assistant Attorney General for Administration.

1. The authority for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534, 31 U.S.C. 3717, 9701.

2. 28 CFR 16.99 is amended by adding paragraphs (g) and (h) to read as follows:

§ 16.99 Exemption of the Immigration and Naturalization Service Systems-limited access.

* * * * *

(g) The Office of Internal Audit Investigations Index and Records (Justice/INS–002) system of records is exempt under the provisions of 5 U.S.C. 552a(j)(2) from subsections (c)(3) and (4); (d); (e)(1), (2), (3), (5) and (8); and (g), but only to the extent that this system contains records within the scope of subsection (j)(2), and to the extent that records in the system are subject to exemption therefrom. In addition, this system of records is also exempt under the provisions of 5 U.S.C. 552a(k)(2) from subsections (c)(3); (d); and (e)(1), but only to the extent that this system contains records within the scope of subsection (k)(2), and to the extent that records in the system are subject to exemption therefrom.

(h) The following justification apply to the exemptions from particular subsections:

(1) From subsection (c)(3) because the release of the disclosure accounting for disclosure could permit the subject of an actual or potential criminal or civil investigation to obtain valuable information concerning the existence and nature of the investigation, the fact that individuals are subjects of the investigation, and present a serious impediment to law enforcement.

(2) From subsection (c)(4) to the extent that the exemption from subsection (d) is applicable. Subsection (c)(4) will not be applicable to the extent that records in the system are properly withholdable under subsection (d).

(3) From the access and amendment provisions of subsection (d) because access to the records contained in this system of records could inform the subject of a criminal or civil investigation of the existence of that investigation; of the nature and scope of the information and evidence obtained as to their activities; of the identity of confidential sources, witnesses and law enforcement personnel; and of

information that may enable the subject to avoid detection or apprehension. Such disclosures would present a serious impediment to effective law enforcement where they prevent the successful completion of the investigation; endanger the physical safety of confidential sources, witnesses, and law enforcement personnel; and/or lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony. In addition, granting access to these records could result in a disclosure that would constitute an unwarranted invasion of the privacy of third parties. Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(4) From subsection (e)(1) because in the course of criminal or civil investigations, the Immigration and Naturalization Service often obtains information concerning the violation of laws other than those relating to violations over which INS has investigative jurisdiction, in the interests of effective law enforcement, it is necessary that INS retain this information since it can aid in establishing patterns of criminal activity and provide valuable leads for those law enforcement agencies that are charged with enforcing other segments of the criminal law.

(5) From subsection (e)(2) because in a criminal investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection or apprehension.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment of criminal law enforcement in that it could compromise the existence of a confidential investigation, reveal the identify of confidential sources of information and endanger the life or physical safety of confidential informants.

(7) From subsection (e)(5) because in the collection of information for criminal law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

(8) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to criminal law enforcement as this could interfere with the Immigration and Naturalization Service's ability to issue administrative subpoenas and could reveal investigative techniques and procedures.

(9) From subsection (g) for those portions of this system of records that were compiled for criminal law enforcement purposes and which are subject to exemption from the access provisions of subsections (d) pursuant to subsection (j)(2).

[FR Doc. 97–16595 Filed 6–24–97; 8:45 am]

BILLING CODE 4410–10–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1404

Arbitration Policy; Roster of Arbitrators, Procedures for Arbitration Services

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final rule.

SUMMARY: This document revises Subparts A, B, and C of 29 CFR Part 1404. The goals of these revisions and additions are to more accurately reflect current practice, clarify the role of the Arbitrator Review Board, amend the standards for arbitrator listing on the Roster, streamline the primary arbitration process, and provide new services to our customers. The new rules also call for an annual listing fee for all arbitrators as well as a fee for all requests by the parties for names of arbitrators.

DATES: This regulation is effective October 1, 1997, except for § 1404.7 which will be effective September 1, 1997.

FOR FURTHER INFORMATION CONTACT: Peter Regner, 202–606/8181.

SUPPLEMENTARY INFORMATION: The Federal Mediation and Conciliation Service, in an effort to receive public input on ways to improve its arbitration services, published the draft revision of its proposed rules in the March 13, 1997, issue of the **Federal Register** (62 FR 11797) and conducted a formal all-day focus group on March 27, 1997. The focus group consisted of six (6) arbitrators, six (6) of the Service's top labor customers and six (6) of its leading management customers. In addition to the comments from the focus group, the Service received 68 written responses: 61 from arbitrators, six (6) from management, and one (1) from labor.

These regulations revise and supplement the rules under which the Office of Arbitration Services (OAS) has operated since April 15, 1979. Many of the changes simply describe operational changes which have evolved over the last 18 years but have never been formally documented. Other changes stem from a large-scale reinvention effort in which OAS employees, their union and management officials are attempting to operate in a more efficient and effective manner. Some revisions are aimed at improving the arbitration process by enforcing deadlines upon both the parties and the arbitrators.

In general, the public's response to the proposed rule changes was very favorable. Over one-fourth of the written responses indicated total support of all proposed changes. Only one proposed change failed to receive public support, and that issue has been removed from the final rule. Most comments supported the general policy and suggested minor revisions as to its implementation. More specific information about the public response is contained in the following section-by-section analysis.

Subpart A: Arbitration Policy; Administration of Roster

Sections 1404.1–1404.3

There were no changes made to the Proposed Rule.

Subpart B: Roster of Arbitrators; Admission and Retention

Section 1404.4–1404.7

Section 1404.5

Subsection (b). The proposed rule has been changed by stating that qualifications for recommending listing on the Roster ''may'' rather than ''shall'' be demonstrated by submission of five (5) rather than ''at least five (5)'' awards. The rule also was changed by stating ''The [Arbitrator Review] Board will consider experience'' instead of ''may consider experience'' in lieu of such awards. These changes reflect several

comments by labor and management concerning the importance of relevant labor relations experience relative to actual decision-making experience.

Subsection (c). Although the policy in this paragraph remains the same, the language has been revised to better clarify actual practice. The policy continues to reflect that advocates will not be allowed on the Roster of Arbitrators. However, it has been and will remain FMCS policy to allow candidates with past advocacy experience to enter the Roster if they ''agree to cease such activity before being recommended for listing on the Roster by the [Arbitrator Review] Board.''

In addition, the ''Definition of Advocacy'' has been revised to allow that ''Consultants engaged in joint education or training or other non-adversarial activities will not be deemed advocates.'' This revision was based upon suggestions from the focus group as well as written comments.

Subsection (d)(6). The removal of arbitrators section generated a fair number of comments from arbitrators. Although generally supportive, most comments reflected concern over the implementation of the policy and due process safeguards.

Most comments were directed to the provision allowing the FMCS Director to remove arbitrators whose acceptability to the parties may be questioned based upon the number of times they have been selected. This section has been modified by adding that extenuating circumstances, length of time on the Roster, or prior history would all be taken into consideration before such action is contemplated. FMCS may also delay future efforts to cull the Roster until new improvements to its computer-generated panel submission process have had sufficient time to take place.

There were several comments regarding the finality of removals of arbitrators from the FMCS Roster. That has been clarified by adding that ''Removals may be for a period of up to two (2) years, after which the arbitrator may seek reinstatement.''

FMCS will not undertake suspension or removal actions without regard to just cause and due process. All actions are subject to appeal to the FMCS Arbitrator Review Board and will allow the arbitrator full opportunity to present all pertinent arguments.

Section 1404.9

Subsection (c). Direct appointments by FMCS at the request of parties using the new ''list'' service has been clarified.

Subsection (f)—Public comments ran three to one against the proposed subsection (f) language which would have allowed one party to request services other than a standard panel if the party certified that both parties agreed to the request and that the request did not conflict with the collective bargaining agreement. The comments warned that this practice could and probably would be frequently abused. The original proposed language has therefore been eliminated. The new language restates previous policy that unilateral requests for anything other than a standard panel or list will not be honored unless authorized in the applicable collective bargaining agreement. This includes requests for second and third panels and for direct appointments of arbitrators.

Subsection (g)—Language has been added to clarify that the fees may be paid by either labor or management or both parties. We received 12 comments specifically supporting the fee for service and five (5) opposed. Federal management officials expressed hope that credit cards could be used. Both Master Card and Visa are acceptable methods of payment.

Section 1404.11

Subsection (a)—This section reflects the deletion of the proposed 1404.9(f) language. It reiterates that requests for other than a list of arbitrators or a panel of seven (7) names must be jointly made. Unilateral requests will be honored only if allowed in the collective bargaining agreement.

The section also states that all arbitrator fees will now be listed on the biographical sketches. This change responds to many written requests that this information be added.

Subsection (c)(2)—A sentence has been added clarifying that the parties' inclusion or exclusion of names may not be for illegal discriminatory reasons.

Section 1404.12

Subsection (c)(3)—A new provision has been added as the result of the focus group. To avoid delays in the process, once one party submits its prioritized selection of arbitrators, the other party will be informed that it has fourteen (14) days to submit its selection, or the first party's choice will be honored. This applies only to those parties separately submitting their selections.

Subsection (d)—Direct appointments of arbitrators by FMCS must be jointly requested unless authorized by the applicable collective bargaining agreement. This responds to comments received about proposed Section 1404.9(f).

Section 1404.15

Subsection (a)—FMCS received 29 specific comments, virtually all from arbitrators, on charging an annual listing fee for arbitrators. Twenty-two of the comments were supportive of the fee. Negative comments ranged from a belief that FMCS provided no services to arbitrators to a feeling that public taxes were already paying for the operation of the Service. Two individuals felt that the $100 fee would have a significant economic impact on the small businesses that arbitrators operate. Several supporters of the fee requested more information on how often their names were submitted to the parties. This will be done as part of the annual invoice process.

In view of the overall support this proposal generated, FMCS will implement its proposed annual listing fees. In addition, arbitrators with dual addresses may now charge the parties from their ''least expensive'' address.

Subsection (d)—In response to comments by several arbitrators, a statement has been added that FMCS may deny its services to those parties who repeatedly fail to pay arbitrators for their services.

List of Subjects in 29 CFR Part 1404

Administrative practice and procedure, Labor management relations.

For the reasons stated in the preamble, the Federal Mediation and Conciliation Service revises 29 CFR Part 1404 to read as follows:

PART 1404—ARBITRATION SERVICES

Subpart A—Arbitration Policy; Administration of Roster

Subpart B—Roster of Arbitrators; Admission and Retention

Subpart C—Procedures for Arbitration Services

Appendix to Part 1404—Arbitration Policy; Schedule of Fees

Authority: 29 U.S.C. 172 and 29 U.S.C. 173 et seq.

Subpart A—Arbitration Policy; Administration of Roster

§ 1404.1 Scope and authority.

This chapter is issued by the Federal Mediation and Conciliation Service (FMCS) under Title II of the Labor Management Relations Act of 1947 (Pub. L. 80–101) as amended. It applies to all arbitrators listed on the FMCS Roster of Arbitrators, to all applicants for listing on the Roster, and to all persons or parties seeking to obtain from FMCS either names or panels of names of arbitrators listed on the Roster in connection with disputes which are to be submitted to arbitration or factfinding.

§ 1404.2 Policy.

The labor policy of the United States promotes and encourages the use of voluntary arbitration to resolve disputes over the interpretation or application of collective bargaining agreements. Voluntary arbitration and factfinding are important features of constructive employment relations as alternatives to economic strife.

§ 1404.3 Administrative responsibilities.

(a) *Director.* The Director of FMCS has responsibility for all aspects of FMCS arbitration activities and is the final agency authority on all questions concerning the Roster and FMCS arbitration procedures.

(b) *Office of Arbitration Services.* The Office of Arbitration Services (OAS) maintains a Roster of Arbitrators (the Roster); administers subpart C of this part (Procedures for Arbitration Services); assists, promotes, and cooperates in the establishment of programs for training and developing new arbitrators; and provides names or panels of names of listed arbitrators to parties requesting them.

(c) *Arbitrator Review Board.* The Arbitrator Review Board shall consist of a chairman and members appointed by the Director who shall serve at the Director's pleasure. The Board shall be composed entirely of full-time officers or employees of the Federal Government and shall establish procedures for carrying out its duties.

(1) *Duties of the Board.* The Board shall:

(i) Review the qualifications of all applicants for listing on the Roster, interpreting and applying the criteria set forth in § 1404.5;

(ii) Review the status of all persons whose continued eligibility for listing on the Roster has been questioned under § 1404.5;

(iii) Recommend to the Director the acceptance or rejection of applicants for listing on the Roster, or the withdrawal of listing on the Roster for any of the reasons set forth in this part;

(iv) At the request of the Director of FMCS, review arbitration policies and procedures, including all regulations and written guidance regarding the use of the FMCS arbitrators, and make recommendations regarding such policies and procedures to the Director.

(2) [Reserved]

Subpart B—Roster of Arbitrators; Admission and Retention

§ 1404.4 Roster and status of members.

(a) *The Roster.* FMCS shall maintain a Roster of labor arbitrators consisting of persons who meet the criteria for listing contained in § 1404.5 and who remain in good standing.

(b) *Adherence of standards and requirements.* Persons listed on the Roster shall comply with FMCS rules and regulations pertaining to arbitration and with such guidelines and procedures as may be issued by the OAS pursuant to subpart C of this part. Arbitrators shall conform to the ethical standards and procedures set forth in the Code of Professional Responsibility for Arbitrators of Labor Management Disputes, as approved by the National Academy of Arbitrators, Federal Mediation and Conciliation Service, and the American Arbitration Association.

(c) *Status of arbitrators.* Persons who are listed on the Roster and are selected or appointed to hear arbitration matters or to serve as factfinders do not become employees of the Federal Government by virtue of their selection or appointment. Following selection or appointment, the arbitrator's relationship is solely with the parties to the dispute, except that arbitrators are subject to certain reporting requirements and to standards of conduct as set forth in this part.

(d) *Role of FMCS.* FMCS has no power to:

(1) Compel parties to appear before an arbitrator;

(2) Enforce an agreement to arbitrate;

(3) Compel parties to arbitrate any issue;

(4) Influence, alter, or set aside decisions of arbitrators on the Roster;

(5) Compel, deny, or modify payment of compensation to an arbitrator.

(e) *Nominations and panels.* On request of the parties to an agreement to arbitrate or engage in factfinding, or where arbitration or factfinding may be provided for by statute, OAS will provide names or panels of names for a nominal fee. Procedures for obtaining these services are outlined in subpart C of this part. Neither the submission of a nomination or panel nor the appointment of an arbitrator constitutes a determination by FMCS that an agreement to arbitrate or enter factfinding proceedings exists; nor does such action constitute a ruling that the matter in controversy is arbitrable under any agreement.

(f) *Rights of persons listed on the Roster.* No person shall have any right to be listed or to remain listed on the Roster. FMCS retains its authority and responsibility to assure that the needs of the parties using its services are served. To accomplish this purpose, FMCS may establish procedures for the preparation of panels or the appointment of arbitrators or factfinders which include consideration of such factors as background and experience, availability, acceptability, geographical location, and the expressed preferences of the parties. FMCS may also establish procedures for the removal from the Roster of those arbitrators who fail to adhere to provisions contained in this part.

§ 1404.5 Listing on the roster; criteria for listing and retention.

Persons seeking to be listed on the Roster must complete and submit an application form which may be obtained from OAS. Upon receipt of an executed application, OAS will review the application, assure that it is complete, make such inquiries as are necessary, and submit the application to the Arbitrator Review Board. The Board will review the completed application under the criteria in paragraphs (a), (b), and (c) of this section, and will forward to the FMCS Director its recommendation as to whether or not the applicant meets the criteria for listing on the Roster. The Director shall make all final decisions as to whether an applicant may be listed on the Roster. Each applicant shall be notified in writing of the Director's decision and the reasons therefor.

(a) *General criteria.* Applicants for the Roster will be listed on the Roster upon a determination that they are experienced, competent, and acceptable in decision-making roles in the resolution of labor relations disputes.

(b) *Proof of qualification.* Qualifications for listing on the Roster may be demonstrated by submission of five (5) arbitration awards prepared by the applicant while serving as an impartial arbitrator of record chosen by the parties to labor disputes arising under collective bargaining agreements. The Board will consider experience in relevant positions in collective

bargaining or as a judge or hearing examiner in labor relations controversies as a substitute for such awards.

(c) *Advocacy.* Any person who at the time of application is an advocate as defined in paragraph (c)(1) of this section, must agree to cease such activity before being recommended for listing on the Roster by the Board. Except in the case of persons listed on the Roster as advocates before November 17, 1996, any person who did not divulge his or her advocacy at the time of listing or who becomes an advocate while listed on the Roster, shall be recommended for removal by the Board after the fact of advocacy is revealed.

(1) *Definition of advocacy.* An advocate is a person who represents employers, labor organizations, or individuals as an employee, attorney, or consultant, in matters of labor relations, including but not limited to the subjects of union representation and recognition matters, collective bargaining, arbitration, unfair labor practices, equal employment opportunity, and other areas generally recognized as constituting labor relations. The definition includes representatives of employers or employees in individual cases or controversies involving worker's compensation, occupational health or safety, minimum wage, or other labor standards matters. This definition of advocate also includes a person who is directly associated with an advocate in a business or professional relationship, as for example, partners or employees of a law firm. Consultants engage only in joint education or training or other non-adversarial activities will not be deemed as advocates.

(2) [Reserved]

(d) *Duration of listing, retention.* Listing on the Roster shall be by decision of the Director of FMCS based upon the recommendations of the Arbitrator Review Board. The Board may recommend, and the Director may remove, any person listed on the Roster, for violation of this part and/or the Code of Professional Responsibility. Notice of cancellation or suspension shall be given to a person listed on the Roster whenever a Roster member:

(1) No longer meets the criteria for admission;

(2) Has become an advocate as defined in paragraph (c) of this section;

(3) Has been repeatedly or flagrantly delinquent in submitting awards;

(4) Has refused to make reasonable and periodic reports in a timely manner to FMCS, as required in subpart C of this part, concerning activities pertaining to arbitration;

(5) Has been the subject of complaints by parties who use FMCS services, and the Board after appropriate inquiry, concludes that just cause for cancellation has been shown;

(6) Is determined by the Director to be unacceptable to the parties who use FMCS arbitration services; the Director may base a determination of unacceptability on FMCS records which show the number of times the arbitrator's name has been proposed to the parties and the number of times it has been selected. Such cases will be reviewed for extenuating circumstances, such as length of time on the Roster or prior history.

(e) The Board may, at its discretion, conduct an inquiry into the facts of any proposed removal from the Roster. An arbitrator listed on the Roster may only be removed after 60-day notice and an opportunity to submit a response or information showing why the listing should not be canceled. The Board may recommend to the Director whether to remove an arbitrator from the Roster. All determinations to remove an arbitrator from the Roster shall be made by the Director. Removals may be for a period of up to two (2) years, after which the arbitrator may seek reinstatement.

(f) The Director of OAS may suspend for a period not to exceed 180 days any person listed on the Roster who has violated any of the criteria in paragraph (d) of this section. Arbitrators shall be promptly notified of a suspension. They may appeal a suspension to the Arbitrator Review Board, which shall make a recommendation to the Director of FMCS. The decision of the Director of FMCS shall constitute the final action of the agency.

§ 1404.6 Inactive status.

A member of the Roster who continues to meet the criteria for listing on the Roster may request that he or she be put in an active status on a temporary basis because of ill health, vacation, schedule, or other reasons.

§ 1404.7 Listing fee.

All arbitrators will be required to pay an annual fee for listing on the Roster, as set forth in the Appendix to this part.

Subpart C—Procedures for Arbitration Services

§ 1404.8 Freedom of choice.

Nothing contained in this part should be construed to limit the rights of parties who use FMCS arbitration services to jointly select any arbitrator or arbitration procedure acceptable to them. Once a request is made to OAS, all parties are subject to the procedures contained in this part.

§ 1404.9 Procedures for requesting arbitration lists and panels.

(a) The Office of Arbitration Services (OAS) has been delegated the responsibility for administering all requests for arbitration services. Requests should be addressed to the Federal Mediation and Conciliation Service, Office of Arbitration Services, Washington, DC 20427.

(b) The OAS will refer a panel of arbitrators to the parties upon request. The parties are encouraged to make joint requests. In the event, however, that the request is made by only one party, the OAS will submit a panel of arbitrators. However, the issuance of a panel—pursuant to either joint or unilateral request—is nothing more than a response to a request. It does not signify the adoption of any position by the FMCS regarding the arbitrability of any dispute or the terms of the parties' contract.

(c) As an alternative to a request for a panel of names, OAS will, upon written request, submit a list of all arbitrators and their biographical sketches from a designated geographical area. The parties may then select and deal directly with an arbitrator of their choice, with no further involvement of FMCS with the parties or the arbitrator. The parties may also request FMCS to make a direct appointment of their selection. In such a situation, a case number will be assigned.

(d) The OAS reserves the right to decline to submit a panel or make appointments of arbitrators, if the request submitted is overly burdensome or otherwise impracticable. The OAS, in such circumstances, may refer the parties to an FMCS mediator to help in the design of an alternative solution. The OAS may also decline to service any requests from parties with a demonstrated history of non-payment of arbitrator fees or other behavior which constrains the spirit or operation of the arbitration process.

(e) The parties are required to use the Request for Arbitration Panel (Form R–43), which has been prepared by the OAS and is available in quantity upon request to the Federal Mediation and Conciliation Service, Office of Arbitration Services, Washington, DC 20427, or by calling (202) 606–5111 or at www.fmcs.gov. Requests that do not contain all required information requested on the R–43 in typewritten form may be rejected.

(f) Requests made by only one party, for a service other than the furnishing of

a standard list or panel of seven (7) arbitrators, will not be honored unless authorized by the applicable collective bargaining agreement. This includes unilateral requests for a second or third panel or for a direct appointment of an arbitrator.

(g) The OAS will charge a nominal fee for all requests for lists, panels, and other major services. Payments for these services must be received with the request for services before the service is delivered and may be paid by either labor or management or both. A schedule of fees is listed in the Appendix to this part.

§ 1404.10 Arbitrability.

The OAS will not decide the merits of a claim by either party that a dispute is not subject to arbitration.

§ 1404.11 Nominations of arbitrators.

(a) The parties may also report a randomly selected panel containing the names of seven (7) arbitrators accompanied by a biographical sketch for each member of the panel. This sketch states the background, qualifications, experience, and all fees as furnished to the OAS by the arbitrator. Requests for a panel of seven (7) arbitrators, whether joint or unilateral, will be honored. Requests for a panel of other than seven (7) names, for a direct appointment of an arbitrator, for special qualifications or other service will not be honored unless jointly submitted or authorized by the applicable collective bargaining agreement. Alternatively, the parties may request a list and biographical sketches of some or all arbitrators in one or more designated geographical areas. If the parties can agree on the selection of an arbitrator, they may appoint their own arbitrator directly without any further case tracking by FMCS. No case number will be assigned.

(b) All panels submitted to the parties by the OAS, and all letters issued by the OAS making a direct appointment, will have an assigned FMCS case number. All future communications between the parties and the OAS should refer to this case number.

(c) The OAS will provide a randomly selected panel of arbitrators located in state(s) in proximity of the hearing site. The parties may request special qualifications of arbitrators experienced in certain issues or industries or that possess certain backgrounds. The OAS has no obligation to put an individual on any given panel, or on a minimum number of panels in any fixed period. In general:

(1) The geographic location of arbitrators placed on panels is governed by the site of the dispute as stated on the request received by the OAS.

(2) If at any time both parties request that a name or names be included, or omitted, from a panel, such name or names will be included, or omitted, unless the number of names is excessive. These inclusions/exclusions may not discriminate against anyone because of age, race, gender, ethnicity or religious beliefs.

(d) If the parties do not agree on an arbitrator from the first panel, the OAS will furnish a second and third panel to the parties upon joint request and payment of an additional fee. Requests for a second or third panel should be accompanied by a brief explanation as to why the previous panel(s) was inadequate. If parties are unable to agree on a selection after having received three panels, the OAS will make a direct appointment upon joint request.

§ 1404.12 Selection by parties and appointments of arbitrators.

(a) After receiving a panel of names, the parties must notify the OAS of their selection of an arbitrator or of the decision not to proceed with arbitration. Upon notification of the selection of an arbitrator, the OAS will make a formal appointment of the arbitrator. The arbitrator, upon notification of appointment, is expected to communicate with the parties within 14 days to arrange for preliminary matters, such as the date and place of hearing. Should an arbitrator be notified directly by the parties that he or she has been selected, the Arbitrator must promptly notify the OAS of the selection and his or her willingness to serve. If the parties settle a case prior to the hearing, the parties must inform the arbitrator as well as the OAS. Consistent failure to follow these procedures may lead to a denial of future OAS service.

(b) If the parties request a list of names and biographical sketches rather than a panel, they may choose to appoint and contact an arbitrator directly. In this situation, neither the parties nor the arbitrator is required to furnish any additional information to FMCS and no case number will be assigned.

(c) Where the parties' collective bargaining agreement is silent on the manner of selecting arbitrators, the parties may wish to consider any jointly determined method or one of the following methods for selection of an arbitrator from a panel:

(1) Each party alternately strikes a name from the submitted panel until one remains, or

(2) Each party advises the OAS of its order of preference by numbering each name on the panel and submitting the numbered lists in writing to the OAS. The name that has the lowest combined number will be appointed.

(3) In those situations where the parties separately notify the OAS of their preferred selections, once the OAS receives the preferred selection from one party, it will notify the other party that it has fourteen (14) days in which to submit its selections. If that party fails to respond within the deadline, the first party's choice will be honored. If, within 14 days, a second panel is requested and is allowed by the collective bargaining agreement, the requesting party must pay a fee for the second panel.

(d) The OAS will make a direct appointment of an arbitrator only upon joint request unless authorized by the applicable collective bargaining agreement.

(e) The issuance of a panel of names or a direct appointment in no way signifies a determination on arbitrability or an interpretation of the terms and conditions of the collective bargaining agreement. The resolution of such disputes rests solely with the parties.

§ 1404.13 Conduct of hearings.

All proceedings conducted by the arbitrators shall be in conformity with the contractual obligations of the parties. The arbitrator shall comply with § 1404.4(b). The conduct of the arbitration proceeding is under the arbitrator's jurisdiction and control, and the arbitrator's decision shall be based upon the evidence and testimony presented at the hearing or otherwise incorporated in the record of the proceeding. The arbitrator may, unless prohibited by law, proceed in the absence of any party who, after due notice, fails to be present or to obtain a postponement. An award rendered in an *ex parte* proceeding of this nature must be based upon evidence presented to the arbitrator.

§ 1404.14 Decision and award.

(a) Arbitrators shall make awards no later than 60 days from the date of the closing of the record as determined by the arbitrator, unless otherwise agreed upon by the parties or specified by the collective bargaining agreement or law. However, failure to meet the 60 day deadline will not invalidate the process or award. A failure to render timely awards reflects upon the performance of an arbitrator and may lead to removal from the FMCS Roster.

(b) The parties should inform the OAS whenever a decision is unduly delayed. The arbitrator shall notify the OAS if and when the arbitrator:

(1) Cannot schedule, hear, and render decisions promptly, or

(2) Learns a dispute has been settled by the parties prior to the decision.

(c) Within 15 days after an award has been submitted to the parties, the arbitrator shall submit an Arbitrator's Report and Fee Statement (Form R–19) to OAS showing a breakdown of the fee and expense charges so that the OAS may review conformance with stated charges under § 1404.11(a). The Form R–19 is not to be used to invoice the parties.

(d) While FMCS encourages the publication of arbitration awards, arbitrators should not publicize awards if objected to by one of the parties.

§ 1404.15 Fees and charges of arbitrators.

(a) FMCS will charge all arbitrators an annual fee to be listed on the Roster. All arbitrators listed on the Roster may charge a per diem and other predetermined fees for services, if the amount of such fees have been provided in advance to FMCS. Each arbitrator's maximum per diem and other fees are set forth on a biographical sketch which is sent to the parties when panels are submitted. The arbitrators shall not change any fee or add charges without giving at least 30 days advance written notice to FMCS. Arbitrators with dual business addresses must bill the parties for expenses from the least expensive business address to the hearing site.

(b) In cases involving unusual amounts of time and expenses relative to the pre-hearing and post-hearing administration of a particular case, an administrative charge may be made by the arbitrator.

(c) Arbitrators shall divulge all charges to the parties and obtain agreement thereto immediately after appointment.

(d) The OAS requests that it be notified of any arbitrator's deviation from the policies expressed in this part. While the OAS does not resolve individual fee disputes, repeated complaints concerning the fees charged by an arbitrator will be brought to the attention of the Arbitrator Review Board for consideration. Similarly, repeated complaints by arbitrators concerning non-payment of fees by the parties may lead to the denial of services or other actions by the OAS.

§ 1404.16 Reports and biographical sketches.

(a) Arbitrators listed on the Roster shall execute and return all documents, forms and reports required by the OAS. They shall also keep the OAS informed of changes of address, telephone number, availability, and of any business or other connection or relationship which involves labor-management relations or which creates or gives the appearance of advocacy as defined in § 1404.5(c)(1).

(b) The OAS will provide biographical sketches on each person admitted to the Roster from information supplied by applicants. Arbitrators may request revision of biographical information at later dates to reflect changes in fees, the existence of additional charges, or other relevant data. The OAS reserves the right to decide and approve the format and content of biographical sketches.

Appendix to 29 CFR Part 1404 Arbitration Policy; Schedule of Fees

Annual listing fee for all arbitrators: $100 for the first address; $50 for second address

Request for panel of arbitrators: $30 for each panel request (includes subsequent appointment)

Direct appointment of arbitrator when a panel is not used—$20 per appointment

List and biographic sketches of arbitrators in a specific area—$10 per request plus $.10 per page

John Calhoun Wells,

Director.

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DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 285

RIN 1510–AA62

Offset of Tax Refund Payments To Collect Past-Due, Legally Enforceable Nontax Debt

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Interim rule with request for comments.

SUMMARY: Effective January 1, 1998, the Department of the Treasury (Treasury) will merge the tax refund offset program with the centralized administrative offset program operated by the Financial Management Service (FMS), a bureau of the Department of the Treasury. The merger of the two offset programs is intended to maximize and improve Treasury's government-wide collection of delinquent nontax debt owed to the Federal Government. FMS will administer nontax debt collection functions that include the tax refund offset program. The Internal Revenue Service (IRS) will remain responsible for the administration of the internal revenue laws. To conform with the requirements of the merged offset program, this interim rule supersedes the tax refund offset procedures promulgated by the IRS.

DATES: This rule is effective July 25, 1997. This rule applies to tax refund payments payable after January 1, 1998. Comments will be received until July 25, 1997.

ADDRESSES: All comments should be addressed to Gerry Isenberg, Financial Program Specialist, Debt Management Services, Financial Management Service, Department of the Treasury, 401 14th Street S.W., Room 151, Washington, D.C. 20227. A copy of this interim rule is being made available for downloading from the Financial Management Service home page at the following address: http://www.fms.treas.gov.

FOR FURTHER INFORMATION CONTACT: Gerry Isenberg, Financial Program Specialist, at (202) 874–6660; Pamela Dillon, Treasury Offset Program, at (202) 874–8700; Ellen Neubauer or Ronda Kent, Senior Attorneys, at (202) 874–6680.

SUPPLEMENTARY INFORMATION:

Background

FMS, as the Treasury disbursing agency, is responsible for the implementation of centralized administrative offset of Federal payments for the collection of delinquent nontax debt owed to Federal agencies and to States, including past-due child support, in accordance with the provisions of the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, 110 Stat. 1321–358 *et seq.* (1996). In addition, FMS disburses more than 850 million Federal payments annually, including tax refund payments to taxpayers on behalf of the IRS.

Under 26 U.S.C. 6402(d) and 31 U.S.C. 3720A, the tax refund of a taxpayer who owes delinquent debt to a Federal agency is reduced, or offset, by the amounts owed by the taxpayer. The funds offset from the taxpayers' tax refunds are forwarded to the Federal agency collecting the delinquent debt. Since 1986, the IRS has been collecting delinquent debt owed to Federal agencies by tax refund offset.

To improve the efficiency of Treasury's collection of delinquent debt owed to Federal agencies, effective January 1, 1998, the tax refund offset program will merge with the centralized administrative offset program operated by FMS, known as the ''Treasury Offset Program.'' The Treasury Offset Program, described below, is a centralized offset program. Under the Treasury Offset Program, a Federal payment to a person can be reduced, or offset, by a

delinquent amount owed by that person to a Federal agency or to a State. In centralizing offset through the Treasury Offset Program, FMS will consolidate and simplify offset procedures for the Federal Government. The rules and procedures governing the Treasury Offset Program will reflect statutory requirements for particular types of payments or debts, as well as the general rules applicable to collection of debts by offset.

The DCIA clarified that a Treasury disbursing official may conduct tax refund offsets (see section 31001(w) of the DCIA, codified at 31 U.S.C. 3720A(h)). To conform with the requirements of the merged program, this regulation supersedes the procedures governing the tax refund offset program established by the IRS (codified at 26 CFR 301.6402–6), applicable to the collection of delinquent nontax debts owed to Federal agencies. The tax refund offset procedures in this rule supersede the procedures codified at 26 CFR 301.6402–6. Procedures for processing claims by non-debtor spouses and for rejecting a taxpayer's election to apply his or her refund to future tax liabilities remain governed by IRS rules.

FMS will promulgate separate rules for the offset of tax refund payments for the collection of past-due child support under 26 U.S.C. 6402(c) (offset of past-due support against overpayments) and 42 U.S.C. 664 (collection of past-due support from Federal tax refunds). In addition, as authorized by the DCIA, FMS will promulgate rules for the offset of payments other than tax refund payments for the collection of debts owed to the United States and debts owed to States. FMS anticipates that Part 285 of this title will contain all of the provisions relating to offset by disbursing officials for the collection of debts owed to the Federal Government and to State governments, including past-due support.

Under the Treasury Offset Program, before a payment is disbursed to a payee, FMS will compare the payee information with debtor information in a database operated by FMS. The database contains debtor information submitted and updated by Federal and State agencies collecting debts. If the payee's name (or derivation of the name, known as a ''name control'') and taxpayer identifying number (TIN) match the name control and TIN of a debtor, the payment will be offset to satisfy the debt, to the extent allowed by law, including applicable regulations. The delinquent debt information will remain in the debtor database for continuous offset of tax refund and all other eligible Federal payments until debt collection activity for that debt is terminated because of payment, compromise, write-off or other reasons justifying termination.

After January 1, 1998, tax refund payments will be offset as part of the Treasury Offset Program, subject to the requirements of 26 U.S.C. 6402 and 31 U.S.C. 3720A. Since FMS issues different payment types daily, a nontax delinquent debt could be satisfied by the offset of a variety of Federal payment types, including vendor, salary, retirement and certain benefit payments, as well as tax refund payments.

As required by IRS regulation codified at 26 CFR 301.6402–6, under the Treasury Offset Program and this rule, before submitting the debt to FMS for offset, creditor agencies are responsible for notifying debtors that their debt is delinquent and that the creditor agency intends to collect the debt by offset. In the notice, the creditor agency must inform debtors of their right to review applicable records and to seek a review of the determination of the debt. The creditor agency will certify to FMS that the requirements of this regulation and applicable Federal law have been met.

After a tax refund offset occurs, FMS will notify the debtor that the offset has occurred. FMS will provide information to the debtor regarding the amount and date of the offset, the creditor agency to which the amount offset was paid or credited, and a contact within the creditor agency that will handle concerns or questions regarding the offset. The notice also will advise any non-debtor spouse who may have filed a joint tax return with the debtor of the steps that a non-debtor spouse may take to secure his or her proper share of the tax refund. IRS will continue to be responsible for reviewing refund claims by non-debtor spouses. FMS will provide creditor agencies with sufficient information to identify the debt for which amounts have been collected, but will not disclose the payment source for the amounts collected. FMS also will report offset information to the IRS at least weekly.

Procedural Changes Under Treasury Offset Program

As described in detail below, this rule supersedes certain procedures established by the IRS (codified at 26 CFR 301.6402–6) applicable to the collection of delinquent nontax debts owed to Federal agencies. The procedural changes do not affect the rights of the debtor to dispute the nature or amount of the debt or method of collection; they only reflect the changes necessitated by the merger of tax refund offset with the Treasury Offset Program and/or enactment of the DCIA. For example, since FMS will implement tax refund offset, under this rule, agencies are required to refer delinquent debts and provide information and certification to FMS, instead of IRS. FMS, rather than IRS, will provide post-offset notices and information to debtors and agencies. Under the Treasury Offset Program, agencies will submit debts for offset on an ongoing basis, rather than annually. Therefore, agencies may report, as needed, routine increases to the amount of the debt (such as those resulting from interest, penalties, and costs) subject to notice and certification requirements.

Under the IRS regulation (codified at 26 CFR 301.6402–6(c)), prior to referring a debt for tax refund offset, among other things, agencies are required to attempt to collect the debt by administrative and salary offset. FMS' Treasury Offset Program implements the DCIA mandate to conduct centralized administrative offset (31 U.S.C. 3716(c)) and salary offset (5 U.S.C. 5514(a)). Therefore, when an agency refers a debt to FMS' Treasury Offset Program, the debt automatically will be subject to collection by administrative offset, salary offset, and tax refund offset. Under the IRS regulation (codified at 26 CFR 301.6402–6(c)), prior to referring a debt for tax refund offset, agencies are required to report the debt to a consumer reporting agency. The DCIA requires that agencies report delinquent consumer debt to credit bureaus, which agencies may do prior to or after submitting a debt to the Treasury Offset Program. Although agencies are encouraged to report delinquent debt early in the collection process, credit bureau reporting is not a prerequisite to tax refund offset under this rule.

Creditor agencies are required to provide the same due process rights to debtors under this rule as required by the IRS regulation (codified at 26 CFR 301.6402–6) and agency-specific regulations. Under the IRS regulation codified at 26 CFR 301.6402–6(d)(1), agencies are required to mail the pre-offset notice to a debtor at the mailing address obtained by the IRS. Although agencies may continue to use the IRS mailing address, this rule allows agencies the flexibility to use current address information contained in an agency's records, which may include address information obtained from the debtor, public databases, and other means. Since 1992, when the IRS promulgated its final rule, access to address information databases has become widely available at reasonable

costs. Also, based on their experience as participants in the tax refund offset program over the last 10 years, some agencies have indicated that the debtor address in their files is a more appropriate mailing address for due process notification than the IRS address. The change contained in this rule recognizes the fact that, for the purpose of providing pre-offset notice to the taxpayer, the address obtained by a creditor agency may be more recent than the address that the IRS can provide based on a prior year's tax return.

Section Analysis

(a) Definitions

Creditor agency. The term ''creditor agency'' has the same meaning as found at 31 U.S.C. 3701(e)(1) and includes a Federal agency seeking to collect a claim through tax refund offset.

Debt or claim. For the purposes of this rule, the terms ''claim'' and ''debt'' are synonymous and interchangeable and have the same meaning as found at 31 U.S.C. 3701(b). The term includes debt administered by a third party acting as an agent for the Federal Government as set forth in 31 U.S.C. 3720A(a).

Tax refund offset. For purposes of this rule, the term ''tax refund offset'' means withholding or reducing a tax refund payment by an amount necessary to satisfy a debt owed by the payee(s) of a tax refund payment. This rule governs the offset of tax refund payments under 26 U.S.C. 6402(d), 31 U.S.C. 3720A and agency regulations promulgated in accordance with the requirements of this rule. This rule does not cover the offset of payments other than tax refund payments, nor does it cover tax refund offset for the collection of past-due support. The offset of tax refund payments to collect past-due child support is governed by 26 U.S.C. 6402(c), 42 U.S.C. 664, and additional regulations issued by FMS and the Department of Health and Human Services. The offset of other types of Federal payments to collect delinquent debt is governed by 31 U.S.C. 3716, 5 U.S.C. 5514, and related regulations issued by FMS, Office of Personnel Management, and agencies collecting debt.

Tax refund payment. The tax refund payment is the amount to be refunded to the taxpayer after the IRS has applied the taxpayer's overpayment to the taxpayer's past-due tax liabilities in accordance with 26 U.S.C. 6402(a) and 26 CFR 6402–3(a)(6)(i).

(b) General Rule

Paragraph (b)(1) states the general rule that Federal agencies, except the Tennessee Valley Authority (TVA), are required to submit nontax delinquent debt information to the Secretary of the Treasury for purposes of tax refund offset. TVA may, but is not required to, submit its delinquent debt information for tax refund offset. Under the IRS regulation codified at 26 CFR 301.6402–6(a), agencies submit debt information to the IRS. Under this rule, agencies will submit debt information to FMS, a bureau of the Treasury. FMS will operate the delinquent debtor database and agencies are required to submit debtor information to FMS for offset purposes. Federal agencies will submit delinquent debtor information to FMS for purposes of tax refund offset and administrative offset simultaneously. Thus, agencies will not have to submit duplicate information to the IRS (for tax refund offset) and FMS or other Federal agencies (for administrative offset).

Paragraph (b)(2) describes the offset process.

Paragraph (b)(3) identifies the types of debts that this rule does not cover. Tax debts are collected in accordance with the Internal Revenue Code and related regulations. As noted above, the IRS deducts any tax liabilities owed by the taxpayer before authorizing the issuance of the tax refund payment.

Paragraph (b)(4) describes the rules applicable to tax refund offset for the purpose of collecting Federal Old Age, Survivors and Disability Insurance (OASDI) overpayments. These rules have not changed as a result of the merger of the tax refund offset program with the administrative offset program.

Paragraph (b)(5) clarifies that an agency is not precluded from using other debt collection tools, such as wage garnishment, after submitting a debt to FMS for purposes of tax refund and administrative offset.

(c) Regulations

This paragraph requires agencies to promulgate temporary or final regulations for administrative and tax refund offset. Agencies that previously participated in the tax refund offset program may need to revise existing regulations to conform with the revised requirements in this rule. Regulations for administrative offset under 31 U.S.C. 3716 are required since any debt submitted to the FMS debtor database will be subject to administrative and tax refund offset simultaneously (to the extent that payments are available for offset). Therefore, in addition to tax refund offset requirements, a creditor agency must meet the prerequisites for administrative offset before submitting debts for collection by offset. FMS anticipates that Federal employee salary offsets (whereby salary payments payable to Federal employees who owe Federal debt are reduced to satisfy the outstanding obligations) will be part of the Treasury Offset Program.

(d) Agency Certification and Referral of Debt

This paragraph describes the procedures related to the collection of past-due legally enforceable debt owed to Federal agencies by tax refund offset.

Paragraph (d)(1) outlines the certification required by an agency submitting debt to FMS for tax refund offset. Section 3720A(b) of title 31 requires that, before collecting a debt by tax refund offset, an agency must certify that reasonable efforts to collect the debt have been made by the agency. Under the IRS regulation codified at 26 CFR 301.6402–6(c), before referring a debt for tax refund offset agencies are required, among other things, to report the debt to a credit bureau and attempt collection by salary and administrative offset. This rule no longer requires credit bureau reporting and offset collection as prerequisites to tax refund offset because the DCIA mandates that agencies submit their delinquent debts to Treasury for administrative offset and participate in matches for salary offset purposes. FMS' Treasury Offset Program will implement the DCIA mandates to conduct centralized administrative (31 U.S.C. 3716(c)) and salary offset (5 U.S.C. 5514(a)). Therefore, when an agency refers a debt to FMS' Treasury Offset Program, the debt automatically will be subject to collection by administrative offset, salary offset, and tax refund offset. Under this rule, by complying with the DCIA, agencies will meet the ''reasonable efforts'' requirement since, before submitting a debt for tax refund offset, agencies will have demanded payment, notified the debtor that the agency intends to collect the debt by offset through FMS' Treasury Offset Program if payment is not received when due, and provided the debtor with an opportunity for review of the debt and to enter into a reasonable repayment plan. The DCIA further requires that agencies report delinquent consumer debt to credit bureaus, which agencies may do prior to or after submitting a debt to FMS' Treasury Offset Program. Although agencies are encouraged to report delinquent debt early in the collection process, credit bureau reporting is not a prerequisite to tax refund offset under this rule.

Paragraph (d)(1)(iv) requires agencies to certify that the debt is at least $25. If a debt referred to FMS is over $25 at the time it is referred, the debt will remain

subject to collection by offset until it is paid in full even if it falls below the $25 minimum.

Paragraph (d)(2) governs pre-offset notice and consideration of evidence. Under the IRS regulation codified at 26 CFR 301.6402–6(d)(1), agencies are required to mail a pre-offset notice to a debtor at the mailing address obtained from the IRS. Paragraph (d)(2)(i) of this rule modifies this requirement. As noted above, many agencies can obtain updated address information from credit reports, public record databases and the debtor. In many cases, the address obtained by the agency is more recent than the address that the IRS can provide based on a prior year's tax return. Therefore, agencies may mail the required pre-offset notice to the debtor at the most current address contained in the agency's records related to the debt. An agency may, but is not required to, obtain address information from the IRS pursuant to 26 U.S.C. 6103(m)(2), (4), or (5) in accordance with IRS procedures.

Paragraph (d)(2)(ii) requires that agencies provide debtors with at least 30 days to request review by the agency when an agent of the creditor agency has handled the review. This requirement is the same as contained in the IRS regulation codified at 26 CFR 301.6402–6(d)(2).

Paragraph (d)(3) governs referral of past-due, legally enforceable debt. This paragraph describes the information that agencies must include for each debt submitted to FMS for purposes of tax refund offset.

Paragraph (d)(4) describes the procedures for correcting and updating information transmitted to FMS by a creditor agency. Under the IRS regulation codified at 26 CFR 301.6402–6(f), agencies are not permitted to increase the amount of debt after they refer a debt to the IRS for tax refund offset. Under the Treasury Offset Program and this rule, agencies may increase the amount of the debt owed, subject to compliance with certification requirements. As operated by the IRS, agencies submit debts annually for tax refund offset. Since, in addition to tax refunds, other types of payments will be offset under the Treasury Offset Program, agencies will submit debts to the debtor database, and offsets will occur, on an ongoing basis. Payments will be offset and applied to a debtor's debt in the order in which the payments are issued. A tax refund payment is one of many types of payments that may be offset. Therefore, agencies may increase the amount of the debt owed if the offset prerequisites have been met.

(e) Priorities for Offset

This paragraph describes how a tax refund payment is applied when a taxpayer owes multiple debts. The priorities as stated in the IRS regulation codified at 26 CFR 301.6402–6 have not changed. Before authorizing FMS to disburse a tax refund payment, the IRS will apply any amount of overpayment by the taxpayer to tax liabilities of the taxpayer (see definition of ''tax refund payment'' in paragraph (a) of this section).

Paragraph (e)(1) states that the tax refund payment will be reduced and applied to a taxpayer's debts in the following order of priority: First by the amount of any past-due support assigned to a State; second, by the amount of any past-due, legally enforceable debt owed to a Federal agency; and third, by the amount of any qualifying past-due support not assigned to a State.

Paragraph (e)(2) states that if a debtor owes more than one past-due, legally enforceable debt to a Federal agency or agencies, the tax refund payment shall be credited against the debts in the order in which the debts accrued. A debt shall be considered to have accrued at the time at which the agency determines that the debt became past due.

FMS notes that for payments other than tax refunds that are offset under the Treasury Offset Program, debts not subject to any time limitation for enforcement will be paid after debts subject to such limitations. One of the purposes of the DCIA is ''to maximize collections of delinquent debts owed to the Government by ensuring quick action to enforce recovery of the debts and the use of all appropriate collection tools.'' DCIA, Section 31001(b)(1). Generally, Government policy requires that agencies apply amounts recovered by offset to debts owed to Federal agencies in accordance with the best interests of the United States, considering the applicable statute of limitations. See Federal Claims Collection Standards at 4 CFR Part 102.3(g). It is in the best interests of the United States to first collect debts that are subject to time limitations restrictions. Therefore, if a debtor owes multiple debts to the United States, amounts offset under 31 U.S.C. 3716 will be applied first to older debts subject to a time limitation, and last to debts for which there is no limitation to when legal action to collect the debt may be initiated. See e.g., 20 U.S.C. 1091a (no limitation terminates the period within which legal action, including offset, may be taken to collect a student loan). However, unlike 31 U.S.C. 3716, 26 U.S.C. 6402(d)(2) states that a tax refund payment shall be applied to multiple debts owed to Federal agencies by a taxpayer in the order in which such debts accrued.

Paragraph (e)(3) reiterates that the tax refund payment will be applied to the outstanding debts of a taxpayer prior to the taxpayer's future estimated tax liabilities. Any amounts remaining after offset shall be applied to estimated tax, or will be refunded to the taxpayer.

(f) Post-Offset Notice to the Debtor, the Creditor Agency, and the IRS

As provided by the IRS under the IRS regulation codified at 26 CFR 301.6402–6(h), under this paragraph (f), once an offset of a tax refund payment has occurred, FMS will provide notice to the payee and the creditor agency collecting the debt. FMS will not inform the creditor agency of the payment source of the amounts collected. Since FMS and other disbursing agencies will be conducting offsets of various payment types, debt repayment may result from any one of a number of payment sources. In its notice to the payee, FMS also will notify a non-debtor spouse who files a joint income tax return with a debtor and who is entitled to a tax refund of the procedures that may be taken to secure his or her proper share of the tax refund. FMS will notify the IRS of any offsets.

(g) Offset Made With Regard to a Tax Refund Payment Based Upon Joint Return

This paragraph states that a non-debtor spouse who files a joint income tax return with a debtor should take appropriate action to secure his or her proper share of a tax refund from which an offset was made. Such procedures are governed by IRS rules and are not affected by this rule.

(h) Disposition of Amounts Collected

This paragraph describes how amounts collected from tax refund payments will be transmitted to creditor agencies.

(i) Fees

As did the IRS, FMS will charge a fee to cover the costs of the tax refund offset program incurred by FMS and IRS. FMS will deduct the fee from the amount offset before that amount is transmitted to the creditor agency. The creditor agency may add this fee to the amount of the debt as an administrative cost if permitted by law. FMS may adjust the amount of the fee annually to ensure that the fee adequately covers the

administrative costs of the tax refund offset program.

(j) Review of Tax Refund Offsets

As provided in the IRS regulation codified at 26 CFR 301.6402–6(l) and not changed by this rule, the reduction of a taxpayer's refund made pursuant to 26 U.S.C. 6402(d) shall not be subject to review by any court of the United States or by the Secretary of the Treasury, FMS or IRS in an administrative proceeding. Any action taken to recover the amount of a tax refund offset must be taken against the Federal creditor agency to which the amount of the reduction was paid. With respect to recoveries of overpayments of benefits under 42 U.S.C. 404, any action to recover the amount of the tax refund offset must be taken against the Commissioner of Social Security.

(k) Access to and Use of Confidential Tax Information

Since creditor agencies will not receive information identifying the payment source of an offset, FMS does not anticipate that creditor agencies will have access to and use of confidential tax information under the merged offset programs. If any such information is disclosed, however, access to and use of such information is restricted and governed by 26 U.S.C. 6103.

(l) Effective Date

The merger of the tax refund offset program with the administrative offset program conducted by FMS will be effective for all tax refund payments payable after January 1, 1998. Before that date, Federal agencies must publish or amend tax refund offset regulations and otherwise comply with tax refund offset prerequisites, such as providing notice to debtors, to participate in the merged program for tax refund payments payable after January 1, 1998. Therefore, although this rule applies to tax refund payments payable after January 1, 1998, agencies are required to comply with the requirements of this rule on July 25, 1997.

Regulatory Analyses

This interim rule is not a significant regulatory action as defined in Executive Order 12866. Because no notice of proposed rulemaking is required for this interim rule, the provisions of the Regulatory Flexibility Act do not apply.

Special Analyses

FMS is promulgating this interim rule without opportunity for prior public comment pursuant to the Administrative Procedure Act, 5 U.S.C. 553, because FMS has determined that a comment period would be unnecessary, impractical, and contrary to the public interest. A comment period is unnecessary because this interim rule does not contain any significant, substantive changes from the IRS regulations and does not change how the tax refund offset program affects the taxpayer who owes delinquent nontax debt. This interim rule reflects changes to procedures under which creditor agencies submit debt information to Treasury because of DCIA requirements and the merger of the tax refund offset program with other Federal offset programs. Under this regulation, creditor agencies will submit delinquent debt information to FMS, instead of the IRS. Creditor agencies remain responsible for providing debtors with the same pre-offset notice, opportunities, and rights to dispute the debt as required under existing IRS regulations.

The purpose of a delayed effective date is to afford persons affected by a rule a reasonable time to prepare for compliance. However, in this case, many agencies have participated in the tax refund offset program over the last 10 years. Procedures affecting debtors remain substantially unchanged. The procedural changes in this rule affect how agencies will participate in the offset program. In order to implement the merged offset programs for tax refund payments made after January 1, 1998, agencies may need to modify and/or promulgate their own offset regulations and provide debtors with pre-offset notice prior to October 1997. This interim rule provides critical guidance that will facilitate creditor agencies' participation in the tax refund offset program in 1998.

The merged offset programs will improve the efficiency of Treasury's government-wide collection of nontax delinquent debts. Therefore, FMS believes that good cause exists and that it is in the public interest to issue the interim rule without opportunity for prior public comment.

The public is invited to submit comments on the interim rule which will be taken into account before a final rule is issued.

List of Subjects in 31 CFR Part 285

Administrative practice and procedure, Claims, Privacy, Taxes.

Authority and Issuance

For the reasons set forth in the preamble, part 285 is added to 31 CFR chapter II, subchapter A, to read as follows:

PART 285—DEBT COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

Subpart A—Disbursing Official Offset

Sec.
285.1 [Reserved]
285.2 Offset of tax refund payments to collect past-due, legally enforceable nontax debt.

Authority: 26 U.S.C. 6402; 31 U.S.C. 321, 3720A.

Subpart A—Disbursing Official Offset

§ 285.1 [Reserved]

§ 285.2 Offset of tax refund payments to collect past-due, legally enforceable nontax debt.

(a) *Definitions.* For purposes of this section:

Creditor agency means a Federal agency owed a claim that seeks to collect that claim through tax refund offset.

Debt or *claim* refers to an amount of money, funds, or property which has been determined by an agency official to be due the United States from any person, organization, or entity, except another Federal agency. For the purposes of this section, the terms ''claim'' and ''debt'' are synonymous and interchangeable and includes debt administered by a third party acting as an agent for the Federal Government.

Debtor means a person who owes a debt or claim. The term ''person'' includes any individual, organization or entity, except another Federal agency.

FMS means the Financial Management Service, a bureau of the Department of the Treasury.

IRS means the Internal Revenue Service, a bureau of the Department of the Treasury.

Tax refund offset means withholding or reducing a tax refund payment by an amount necessary to satisfy a debt owed by the payee(s) of a tax refund payment.

Tax refund payment means any overpayment of Federal taxes to be refunded to the person making the overpayment after the IRS makes the appropriate credits as provided in 26 U.S.C. 6402(a) and 26 CFR 6402–3(a)(6)(i) for any liabilities for any tax on the part of the person who made the overpayment.

(b) *General rule.* (1) A Federal agency (as defined in 26 U.S.C. 6402(g)) that is owed by a person a past-due, legally enforceable nontax debt shall notify FMS of the amount of such debt for collection by tax refund offset. However, any agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h) owed such a debt may, but is not

required to, notify FMS of the amount of such debt for collection by tax refund offset.

(2) FMS will compare tax refund payment records, as certified by the IRS, with records of debts submitted to FMS. A match will occur when the taxpayer identifying number (as that term is used in 26 U.S.C. 6109) and name (or derivation of the name, known as a ''name control'') of a payment certification record are the same as the taxpayer identifying number and name control of a debtor record. When a match occurs and all other requirements for tax refund offset have been met, FMS will reduce the amount of any tax refund payment payable to a debtor by the amount of any past-due, legally enforceable debt owed by the debtor. Any amounts not offset will be paid to the payee(s) listed in the payment certification record.

(3) This section does not apply to any debt or claim arising under the Internal Revenue Code.

(4)(i) This section applies to Federal Old Age, Survivors and Disability Insurance (OASDI) overpayments provided the requirements of 31 U.S.C. 3720A(f)(1) and (2) are met with respect to such overpayments.

(ii) For purposes of this section, ''OASDI overpayment'' means any overpayment of benefits made to an individual under title II of the Social Security Act (42 U.S.C. 401 *et seq.*).

(5) A creditor agency is not precluded from using debt collection procedures, such as wage garnishment, to collect debts that have been submitted to FMS for purposes of offset under this part. Such debt collection procedures may be used separately or in conjunction with offset collection procedures.

(c) *Regulations.* Prior to submitting debts to FMS for collection by tax refund offset, Federal agencies shall promulgate temporary or final regulations under 31 U.S.C. 3716 and 31 U.S.C. 3720A, governing the agencies' authority to collect debts by administrative offset, in general, and offset of tax refund payments, in particular.

(d) *Agency certification and referral of debt—(1) Past-due, legally enforceable debt eligible for tax refund offset.* For purposes of this section, when a Federal agency refers a past-due, legally enforceable debt to FMS for tax refund offset, the agency will certify to FMS that:

(i) The debt is past-due and legally enforceable in the amount submitted to FMS and that the agency will ensure that collections are properly credited to the debt;

(ii) Except in the case of a judgment debt or as otherwise allowed by law, the debt is referred for offset within ten years after the agency's right of action accrues;

(iii) The creditor agency has made reasonable efforts to obtain payment of the debt in that the agency has:

(A) Submitted the debt to FMS for collection by administrative offset and complied with the provisions of 31 U.S.C. 3716(a) and related regulations, to the extent that collection of the debt by administrative offset is not prohibited by statute;

(B) Notified, or has made a reasonable attempt to notify, the debtor that the debt is past-due, and unless repaid within 60 days after the date of the notice, will be referred to FMS for tax refund offset;

(C) Given the debtor at least 60 days to present evidence that all or part of the debt is not past-due or legally enforceable, considered any evidence presented by the debtor, and determined that the debt is past-due and legally enforceable; and

(D) Provided the debtor with an opportunity to make a written agreement to repay the amount of the debt;

(iv) The debt is at least $25; and

(v) In the case of an OASDI overpayment—

(A) The individual is not currently entitled to monthly insurance benefits under title II of the Social Security Act (42 U.S.C. 401 *et seq.*);

(B) The notice describes conditions under which the Commissioner of Social Security is required to waive recovery of the overpayment, as provided under 42 U.S.C. 404(b); and

(C) If the debtor files a request for a waiver under 42 U.S.C. 404(b) within the 60-day notice period, the agency has considered the debtor's request.

(2) *Pre-offset notice and consideration of evidence for past-due, legally enforceable debt.* (i) For purposes of paragraph (d)(1)(iii)(B) of this section, a creditor agency has made a reasonable attempt to notify the debtor if the agency uses the current address information contained in the agency's records related to the debt. Agencies may, but are not required to, obtain address information from the IRS pursuant to 26 U.S.C. 6103(m)(2), (4), or (5).

(ii) For purposes of paragraph (d)(1)(iii)(C) of this section, if the evidence presented by the debtor is considered by an agent of the creditor agency, or other entities or persons acting on the agency's behalf, the debtor must be accorded at least 30 days from the date the agent or other entity or person determines that all or part of the debt is past-due and legally enforceable to request review by an officer or employee of the agency of any unresolved dispute. The agency must then notify the debtor of its decision.

(3) *Referral of past-due, legally enforceable debt.* A Federal agency will submit past-due, legally enforceable debt information for tax refund offset to FMS in the time and manner prescribed by FMS. For each debt, the creditor agency will include the following information:

(i) The name and taxpayer identifying number (as defined in 26 U.S.C. 6109) of the debtor who is responsible for the debt;

(ii) The amount of such past-due and legally enforceable debt;

(iii) The date on which the debt became past-due;

(iv) The designation of the Federal agency or subagency referring the debt; and

(v) In the case of an OASDI overpayment, a certification by the Commissioner of Social Security designating whether the amount payable to the agency is to be deposited in either the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, but not both.

(4) *Correcting and updating referral.* If, after referring a past-due, legally enforceable debt to FMS as provided in paragraph (d)(3) of this section, a creditor agency determines that an error has been made with respect to the information transmitted to FMS, or if an agency receives a payment or credits a payment to the account of a debtor referred to FMS for offset, or if the debt amount is otherwise incorrect, the agency shall promptly notify FMS and make the appropriate correction of the agency's records. Creditor agencies will provide certification as required under paragraph (d)(1) of this section for any increases to amounts owed.

(5) FMS may reject a certification which does not comply with the requirements of paragraph (d)(1) of this section. Upon notification of the rejection and the reason for the rejection, a creditor agency may resubmit the debt with a corrected certification.

(e) *Priorities for offset.* (1) A tax refund payment shall be reduced first by the amount of any past-due support assigned to a State under section 402(a)(26) or section 471(a)(17) of the Social Security Act (42 U.S.C. 602(a)(26) or 42 U.S.C. 671(a)(17)) which is to be offset under 26 U.S.C. 6402(c), 42 U.S.C. 664 and the regulations thereunder; second, by the amount of any past-due,

legally enforceable debt owed to a Federal agency which is to be offset under 26 U.S.C. 6402(d), 31 U.S.C. 3720A and this section; and third, by the amount of any qualifying past-due support not assigned to a State which is to be offset under 26 U.S.C. 6402(c), 42 U.S.C. 664 and the regulations thereunder.

(2) If a debtor owes more than one past-due, legally enforceable debt to a Federal agency or agencies, the tax refund payment shall be credited against the debts in the order in which the debts accrued. A debt shall be considered to have accrued at the time at which the agency determines that the debt became past due.

(3) Reduction of the tax refund payment pursuant to 26 U.S.C. 6402(a), (c), and (d) shall occur prior to crediting the overpayment to any future liability for an internal revenue tax. Any amount remaining after tax refund offset under 26 U.S.C. 6402 (a), (c), and (d) shall be refunded to the taxpayer, or applied to estimated tax, if elected by the taxpayer pursuant to IRS regulations.

(f) *Post-offset notice to the debtor, the creditor agency, and the IRS.* (1)(i) FMS will notify the payee(s) to whom the tax refund payment is due, in writing of:

(A) The amount and date of the offset to satisfy a past-due, legally enforceable nontax debt;

(B) The creditor agency to which this amount has been paid or credited; and

(C) A contact point within the creditor agency that will handle concerns or questions regarding the offset.

(ii) The notice in paragraph (f)(1)(i) of this section will also advise any non-debtor spouse who may have filed a joint tax return with the debtor of the steps which a non-debtor spouse may take in order to secure his or her proper share of the tax refund. See paragraph (g) of this section.

(2) FMS will advise each creditor agency of the names, mailing addresses, and identifying numbers of the debtors from whom amounts of past-due, legally enforceable debt were collected and of the amounts collected from each debtor for that agency. FMS will not advise the creditor agency of the source of payment from which such amounts were collected. If a payment from which an amount of past-due, legally enforceable debt is to be withheld is payable to two individual payees, FMS will notify the creditor agency and furnish the name and address of each payee to whom the payment was payable.

(3) At least weekly, FMS will notify the IRS of the names and taxpayer identifying numbers of the debtors from whom amounts of past-due, legally enforceable debt were collected and the amounts collected from each debtor.

(g) *Offset made with regard to a tax refund payment based upon joint return.* If the person filing a joint return with a debtor owing the past-due, legally enforceable debt takes appropriate action to secure his or her proper share of a tax refund from which an offset was made, the IRS will pay the person his or her share of the refund and request that FMS deduct that amount from amounts payable to the creditor agency. FMS and the creditor agency will adjust their debtor records accordingly.

(h) *Disposition of amounts collected.* FMS will transmit amounts collected for past-due, legally enforceable debts, less fees charged under paragraph (i) of this section, to the creditor agency's account. If an erroneous payment is made to any agency, FMS will notify the creditor agency that an erroneous payment has been made. The agency shall pay promptly to FMS an amount equal to the amount of the erroneous payment (without regard to whether any other amounts payable to such agency have been paid).

(i) *Fees.* The creditor agency will reimburse FMS and the IRS for the full cost of administering the tax refund offset program. FMS will deduct the fees from amounts collected prior to disposition and transmit a portion of the fees deducted to reimburse the IRS for its share of the cost of administering the tax refund offset program. To the extent allowed by law, creditor agencies may add the offset fees to the debt.

(j) *Review of tax refund offsets.* Any reduction of a taxpayer's refund made pursuant to 26 U.S.C. 6402(d) shall not be subject to review by any court of the United States or by the Secretary of the Treasury, FMS or IRS in an administrative proceeding. No action brought against the United States to recover the amount of this reduction shall be considered to be a suit for refund of tax. Any legal, equitable, or administrative action by any person seeking to recover the amount of the reduction of the overpayment must be taken against the Federal creditor agency to which the amount of the reduction was paid. Any action which is otherwise available with respect to recoveries of overpayments of benefits under 42 U.S.C. 404 must be taken against the Commissioner of Social Security.

(k) *Access to and use of confidential tax information.* Access to and use of confidential tax information in connection with the tax refund offset program are restricted by 26 U.S.C. 6103. Generally, agencies will not receive confidential tax information from FMS. To the extent such information is received, agencies are subject to the safeguard, recordkeeping, and reporting requirements of 26 U.S.C. 6103(p)(4) and the regulations thereunder. The agency shall inform its officers and employees who access or use confidential tax information of the restrictions and penalties under the Internal Revenue Code for misuse of confidential tax information.

(l) *Effective date.* This section applies to tax refund payments payable under 26 U.S.C. 6402 after January 1, 1998.

Dated: June 6, 1997.

Russell D. Morris,

Commissioner, Financial Management Service.

[FR Doc. 97–16181 Filed 6–24–97; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 151

[CGD 97–015]

RIN 2115–AF43

Antarctic Treaty Environmental Protection Protocol; Correction

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule; correction.

SUMMARY: This document contains corrections to the direct final regulations [CGD 97–015] which were published Monday, April 14, 1997 (62 FR 18043). The regulations incorporated the Antarctic Treaty Environmental Protection Protocol into the Code of Federal Regulations (CFR).

DATES: This rule is effective on September 30, 1997.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Ray Perry, Office of Operating and Environmental Standards at (202) 267–2714.

SUPPLEMENTARY INFORMATION:

Background

The direct final rule that is the subject of this correction amends Title 33 of the Code of Federal Regulations to implement the Antarctic Science, Tourism, and Conservation Act of 1996 (Pub. L. 104–227). These regulations should guide U.S. owned and/or operated vessels to properly prepare for voyages in the Antarctic. The rule will harmonize U.S. regulations with international standards and improve preparedness to respond to a spill.

Need for Correction

As published, the final regulations contained an error which may prove to be misleading and is in need of correction or clarification.

Correction of Publication

Accordingly, the publication of April 14, 1997, of the final regulations (62 FR 18043), which were the subject of FR Doc. 97–9388 is corrected as follows:

PART 151—[CORRECTED]

1. On page 18045, in the second column, instruction number 1, and the authority cite are corrected to read as follows:

''1. The authority citation for subpart A of part 151 is revised to read as follows:

Authority: 33 U.S.C. 1321 and 1903; Pub. L. 104–227 (110 Stat. 3034), E.O. 12777, 3 CFR, 1991 Comp. P. 351; 49 CFR 1.46.''

Dated: June 17, 1997.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 97–16570 Filed 6–24–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300496A; FRL–5724–6]

RIN 2070–AB78

Cyclanilide; Pesticide Tolerances, Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting the tolerane level for meat of cattle, goats, horses, hogs and sheep as published in the **Federal Register** of May 23, 1997.

DATES: This correction is effective May 23, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Team Leader (22), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number and e-mail address: Room 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703–305–7740). e-mail: giles-parker.cynthia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 23, 1997 (62 FR 20350)(FRL–5719–8), EPA issued a final rule establishing pesticide tolerances for residues of the plant growth regulator, cyclanilide, in or on the food commodities cottonseed, cotton gin byproducts, milk, fat, meat, meat by-products, and kidney of cattle, goats, horses, hogs and sheep. Rhone-Poulenc Ag Company submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act of 1996 (Pub. L. 104–170) requesting the tolerances. The tolerance level for meat of cattle, goats, horses, hogs and sheep was incorrectly shown as 0.20 parts per million in § 180.506. This rule corrects those tolerances effective retroactively to May 23, 1997 as follows:

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements

Dated: June 12, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is corrected as follows:

PART 180—[CORRECTED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In the issue of May 23, 1997, on page 28355, in FR Doc. 97–13645, § 180.506,the table to paragraph (a), the entries for ''Cattle, meat,'' ''Goats, meat,'' ''Hogs, meat,'' and ''Horses, meat,'' are corrected to read as follows:

§ 180.506 Cyclanilide; tolerances for residues.

(a) * * *

Commodity	Parts Per Million
* * * *	*
Cattle, meat	0.02
* * * *	*
Goats, meat	0.02
* * * *	*
Horses, meat	0.02
* * * *	*
Hogs, meat	0.02
* * * *	*

[FR Doc. 97–16508 Filed 6–24–97; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 970613138–7138–01; I.D. 060397E]

RIN 0648–AF81

Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fisheries Off Alaska; 1997–98 Harvest Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final 1997–98 scallop harvest specifications; closure.

SUMMARY: NMFS announces final specifications of total allowable catches (TACs) and crab bycatch limits (CBLs) for the scallop fishery off Alaska during the period July 1, 1997, through June 30, 1998. NMFS also is closing the scallop fishery in Registration Area A (Southeastern), because the TAC specified for that area is zero. This action is necessary to establish harvest limits and associated management measures for scallops during the new fishing year. The intended effect of this action is to conserve and manage the scallop resource under the Fishery Management Plan for the Scallop Fishery off Alaska (FMP).

DATES: The final 1997–98 harvest specifications and closure in Registration Area A are effective July 1, 1997, through June 30, 1998, or until changed by subsequent notification in the **Federal Register**. Comments on the final 1997–98 harvest specifications must be received at the following address by July 25, 1997.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori J. Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. The final 1997 Stock Assessment and Fishery Evaluation (SAFE) report, and the Final Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for Amendment 1 to the FMP are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510–2252 (907–271–2809).

FOR FURTHER INFORMATION CONTACT: Kent Lind, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The scallop fishery in the exclusive economic zone (EEZ) off Alaska is managed by NMFS under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and approved by NMFS on July 26, 1995. Amendment 1 to the FMP was implemented on August 1, 1996 (61 FR 38099, July 23, 1996), and established a joint state-Federal management regime under which NMFS has implemented Federal management measures to parallel most State of Alaska (State) management measures. Regulations implementing the FMP are set out at 50 CFR part 679. General regulations that also affect fishing in the EEZ are set out at 50 CFR part 600.

Under Amendment 1, scallop TACs and CBLs are specified annually by NMFS after consultation with the Alaska State Board of Fisheries (Board) and the Council. In March 1997, the Board reviewed scallop TAC and CBL recommendations made by the Alaska Department of Fish and Game (ADF&G) and forwarded these recommendations to the Council for review and adoption. The Council subsequently distributed the State's proposed TAC and CBL specifications to the public in its newsletter and notified the public of its intent to adopt final specifications at the April 1997 Council meeting. At its April 1997 meeting, the Council adopted the State's recommended TACs and CBLs and forwarded them to NMFS for approval and publication in the **Federal Register**. The Council invited public comment on the 1997–98 scallop TACs and CBLs prior to and during the April 1997 Council meeting. No written or oral comments were received by the Council.

Scallop TACs

The regulations implementing Amendment 1 contain the following requirements for specification of scallop TACs:

1. The total annual TAC amount for scallops off Alaska will be established within the optimum yield (OY) range of 0 to 1.8 million lb (0 to 815.5 mt) of shucked scallop meat.

2. The annual TACs for scallops in each Registration Area or part thereof will be established as a weight in pounds of shucked scallop meat, based on the best available information on the biological condition of the scallop resource and socioeconomic considerations that are consistent with the goals and objectives of the FMP.

3. Annual scallop TACs will be specified for the 12-month period extending from July 1 through June 30 of the following year. An annual TAC amount is available for harvest only for the registration area or district specified, only during the applicable season set out in § 679.64 and only if no closure or other restriction or limitation is applicable.

The TAC recommendations made by the State and adopted by the Council fulfill these requirements and are set out in table 1 below. With the exception of the Kamishak District of Registration Area H (Cook Inlet) and Registration Area E (Prince William Sound), these TACs are unchanged from the 1996–97 fishing year.

As a result of recent State surveys, the scallop TAC for the Kamishak District of Registration Area H was raised from 20,000 lb (9,074 kg) shucked meat to 28,000 lb (12,701 kg) shucked meat and the scallop TAC for Registration Area E was lowered from 50,000 lb (22,686 kg) shucked meat to 17,400 lb (7,893 kg) shucked meat. These TACs are based on estimates of exploitable biomass, a 10-percent harvest rate and a conversion factor of 10 percent average meat weight to total animal weight. Exploitable biomasses for the Kamishak District and Registration Area E are calculated using area swept methods with information from fishermen on bed size, average towing speed, and pounds per tow.

Scallop TACs in all other areas remain unchanged from the 1996–97 fishing year. In the absence of surveys, the State's recommended TAC for each area is established as the average of the historic catch from 1969 to 1994 minus years when no fishery and ''fishing-up effect'' occurs. The term ''fishing-up effect'' is used to describe the initial exploitation phase of a new fishery or removal of accumulated stock.

The only known commercially viable scallop beds in Southeast Alaska are found in the Fairweather Grounds in District 16. For purposes of scallop management, this district has been shifted from the Registration Area A (Southeastern) to the adjacent Registration Area D (Yakutat). Because there are no other known commercially viable scallop beds in Registration Area A, the TAC for this area is set at zero. Vessel operators wishing to explore for new scallop beds in this area would apply for an experimental fishing permit under § 679.6.

TABLE 1.—SCALLOP TAC AMOUNTS FOR THE PERIOD JULY 1, 1997, THROUGH JUNE 30, 1998, IN POUNDS AND KILOGRAMS OF SHUCKED SCALLOP MEAT BY SCALLOP REGISTRATION AREA AND DISTRICT

Scallop registration area	lb	kg
Area A (Southeastern)	zero	zero
Area D (Yakutat):		
District 16	35,000	15,876
All other districts	250,000	113,398
Area E (Prince William Sound)	17,400	7,893
Area H (Cook Inlet):		
Kamishak District	28,000	12,701
Area K (Kodiak)	400,000	181,437
Area M (Alaska Peninsula)	200,000	90,718
Area O (Dutch Harbor)	170,000	77,111
Area Q (Bering Sea)	600,000	272,155
Area R (Adak)	75,000	34,019
Total	1,775,400	805,308

Crab Bycatch Limits

CBLs are established in registration areas where crab bycatch in the scallop fishery is a management concern. ADF&G has recommended CBLs be specified for all registration areas of concern, except Registration Area Q (Bering Sea), according to the following formula: If crab stocks in a registration area are sufficiently healthy to support a commercial crab fishery, the CBL for that area is established at 1 percent of the most recent crab population estimate for that area; if crab stocks in a registration area are insufficiently healthy to support a commercial crab fishery, the CBL for that area is established as 0.5 percent of the most recent crab population estimate.

In Registration Area Q, regulations require that CBLs be specified according to the following formulas: For red king crab, the CBL must be specified within the range of 500 to 3,000 crab. Because red king crab populations in the Bering Sea are currently depressed, the Council adopted the lower end of the acceptable range—500 crab for 1997–98. Red king crab bycatch in the Area Q scallop fishery during 1996–97 was significantly below 500 crab and is expected to remain low in 1997–98, because the Area Q scallop fishery is not typically conducted in areas frequented by red king crab. For *Chionoecetes opilio* Tanner crab, the CBL is set at 0.003176 percent of the best available estimate of *C. opilio* abundance in Registration Area Q. For *C. bairdi* Tanner crab, the CBL is set at 0.13542 percent of the best available estimate of

C. bairdi abundance in Registration Area Q.

The CBLs for the period July 1, 1997, through June 30, 1998, are shown in table 2.

TABLE 2.—CRAB BYCATCH LIMITS FOR THE PERIOD JULY 1, 1997, THROUGH JUNE 30, 1998, IN NUMBERS OF CRABS BY SCALLOP REGISTRATION AREA AND DISTRICT

Scallop registration area	Red king	C. bairdi	C. opilio
Area A (Southeastern)	.....	.....	.....
Area D (Yakutat)	.....	.....	.....
Area E (Prince William Sound)	.....	630	.....
Area H (Cook Inlet):			
Kamishak District	60	29,000	.....
Outer/Eastern Districts	98	2,170	.....
Area K (Kodiak):			
Shelikof District	35	51,000	
Northeast District	50	91,600	
Area M (Alaska Peninsula)	79	45,300	
Area O (Dutch Harbor)	10	10,700	
Area Q (Bering Sea)	500	238,000	172,000
Area R (Adak)	50	10,000	.....
Total	882	478,400	172,000

Closure in Registration Area A

In Registration Area A, the final scallop TAC amount for the period July 1, 1997, through June 30, 1998, is zero. Therefore, under § 679.62(c), NMFS is prohibiting the catch and retention of scallops in Registration Area A from July 1, 1997, through June 30, 1998.

Classification

This action is authorized under 50 CFR part 679 and is exempt from review under E.O. 12866.

The FMP takes into consideration, in the establishment of annual harvest guidelines, the timing of the receipt, development, review, and analysis of the fishery information necessary for setting the specifications, and the need to have the specifications in effect at the beginning of the 1997 fishing year to coordinate the Federal and State scallop fisheries. Amendment 1 to the FMP, implemented on August 1, 1996, recognized these considerations and established a public notification process through **Federal Register** publication and Council mailings, of relevant meetings at which scallop fishery specifications will be developed. This FMP process was designed to provide an opportunity for public input during the annual development of the harvest guidelines. Thus, as the interested public had an opportunity to comment on the formulation of these specifications at the March 1997 Board meeting and the April 1997 Council meeting, there is good cause under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment as such additional procedures would be unnecessary. Additional public comment on the specifications will be accepted for 30 days after publication of this document in the **Federal Register**. The Assistant Administrator (AA) will consider all comments made during this additional public comment period and may make modifications as appropriate. The specifications and closure announced in this rule do not revise the conservation and management measures currently in effect in a manner that would require time to plan or prepare for those revisions. Therefore, the AA finds good cause, under 5 U.S.C.(d)(3), to have a delayed effectiveness period shorter than the statutorily required 30 days, and makes these actions effective on July 1, 1997.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.* and 3631 *et seq.*

Dated: June 19, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–16619 Filed 6–24–97; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 62, No. 122
Wednesday, June 25, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–45–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes. This proposal would require removing the yaw damper coupler; replacing its internal rate gyroscope with a new or overhauled unit; and performing a test to verify the integrity of the yaw damper coupler, and repair, if necessary. This proposal is prompted by an FAA determination that requiring replacement of the internal rate gyroscope will significantly increase the reliability of the yaw damper coupler system. The actions specified by the proposed AD are intended to prevent sudden uncommanded yawing of the airplane due to potential failures within the yaw damper system, and consequent injury to passengers and crewmembers.

DATES: Comments must be received by July 21, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–45–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Hania Younis, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2764; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–45–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–45–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On August 21, 1996, the FAA issued a notice of proposed rulemaking (NPRM), Docket Number 96–NM–151–AD (61 FR 44243, August 28, 1996), applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, which proposed to require repetitive tests to verify the integrity of the yaw damper coupler, and various follow-on actions. That NPRM also proposed to require a one-time inspection to determine the part number of the engage solenoid valve of the yaw damper, and replacement of the valve with a valve having a different part number, if necessary. That NPRM was prompted by a review of the design of the flight control systems on Model 737 series airplanes. The actions specified by that proposed AD were intended to prevent sudden uncommanded yawing of the airplane due to potential failures within the yaw damper system, and consequent injury to passengers and crewmembers.

Actions Since Issuance of the NPRM

Since the issuance of the NPRM described previously, the FAA has determined that the requirements contained in paragraph (b) of the NPRM must be expanded to require hard-time replacement of the internal rate gyroscope of the yaw damper coupler. That paragraph originally proposed to require, in part, replacement of the internal rate gyroscope only if necessary following testing. The FAA made this determination based on data submitted by Boeing, which indicates that requiring replacement of the internal rate gyroscope within a specified time will significantly increase the reliability of the yaw damper coupler system. The FAA finds that such hard-time replacement is necessary in order to address the unsafe condition identified in the original NPRM (i.e., sudden uncommanded yawing of the airplane due to potential failures within the yaw damper system, and consequent injury to passengers and crewmembers).

In addition, a commenter to the original NPRM suggests that it be separated into two independent AD's—one action to address the internal rate gyroscope, and the other action to address the engage solenoid valve. The commenter states that the actions required for each of these parts are

sufficiently different that recordkeeping requirements warrant separate rules.

In response to that commenter, the FAA determined that issuance of two separate AD's is appropriate. Therefore, on April 24, 1997, the FAA issued AD 97–09–15, amendment 39–10011 (62 FR 24325, May 5, 1997), to require accomplishment of the actions contained in the original NPRM that address the engage solenoid valve. [Those actions appeared in paragraph (b) of the original NPRM.] This proposed rule addresses actions contained in the original NPRM that are associated with the internal rate gyroscope of the yaw damper coupler. [Those actions appeared in paragraph (a) of the original NPRM.]

Additionally, on March 7, 1997, the FAA issued an NPRM to require installation of a newly designed rudder-limiting device and yaw damper system [reference Docket 97–NM–28–AD (62 FR 12121, March 14, 1997)]. That proposal was issued in response to a number of reports of malfunctions of the yaw damper system, which may have been caused by failure of the internal rate gyroscope of the yaw damper coupler as a result of wear of the rotor bearing, and contamination and shorting of the electrical connectors or surface position sensors in the area of the yaw damper servo-actuator. Such malfunctions of the yaw damper system, if not corrected, could result in sudden uncommanded yawing of the airplane and consequent injury to passengers and crewmembers.

Boeing advised the FAA that it has designed a rudder-limiting device and a new yaw damper for installation on the latest versions of Model 737 series airplanes currently undergoing certification. Both of these systems are capable of being installed on the existing fleet of Model 737 series airplanes. (Boeing has not yet released a service bulletin reflecting these changes.)

In light of that information, the FAA made a determination that installation of a newly designed rudder-limiting device and yaw damper system is required to ensure the safety of the affected fleet. Installation of a rudder-limiting device is necessary to reduce the rudder authority at altitudes above 1,500 feet above ground level (AGL) so that, if any inadvertent hardover occurs, the resultant roll upset can be controlled with control wheel inputs. Installation of a new yaw damper system is necessary to improve the reliability of the system and its fault monitoring capability, which will prevent uncommanded yawing of the airplane.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require removing the yaw damper coupler; replacing its internal rate gyroscope with a new or overhauled unit; and performing a test to verify the integrity of the yaw damper coupler, and repair, if necessary. The actions would be required to be accomplished in accordance with a method approved by the FAA.

Explanation of Proposed Compliance Times

This proposal would require that the actions be accomplished within 6,000 hours time-in-service (for yaw damper couplers on which the last maintenance activity occurred within less than 12,000 hours time-in-service as of the effective date of the AD), or 3,000 hours time-in-service (for yaw damper couplers on which the last maintenance activity occurred within 12,000 hours time-in-service or more as of the effective date of the AD). Thereafter, repetitive tests would be accomplished every 9,000 hours time-in-service.

In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of accomplishing the required actions within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. The repetitive test interval was established based on analyses submitted by Boeing; accomplishment of tests at this interval will ensure that the overall reliability of the yaw damper coupler system is maximized.

Cost Impact

There are approximately 2,675 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,091 airplanes of U.S. registry would be affected by this proposed AD, that it would take between 8 and 13 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $2,500 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between $3,251,180 and $3,578,480, or between $2,980 and $3,280 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this proposed AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this proposed AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the proposed actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this proposed AD would be redundant and unnecessary.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 97–NM–45–AD.

Applicability: All Model 737–100, –200, –300, –400, and –500 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent sudden uncommanded yawing of the airplane due to potential failures within the yaw damper system, and consequent injury to passengers and crewmembers, accomplish the following:

(a) Remove the yaw damper coupler, replace the internal rate gyroscope with a new or overhauled unit, and perform a test to verify the integrity of the yaw damper coupler, all in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, at the applicable time specified in paragraph (a)(1) or (a)(2) of this AD.

(1) For airplanes on which the yaw damper coupler has accumulated less than 12,000 hours time-in-service since its last maintenance activity as of the effective date of this AD: Perform the actions within 6,000 hours time-in-service after the effective date of this AD; and thereafter at intervals not to exceed 9,000 hours time-in-service.

(2) For airplanes on which the yaw damper coupler has accumulated 12,000 or more hours time-in-service since its last maintenance activity as of the effective date of this AD: Perform the actions within 3,000 hours time-in-service after the effective date of this AD; and thereafter at intervals not to exceed 9,000 hours time-in-service.

(b) If the yaw damper coupler fails the test required by paragraph (a) of this AD, prior to further flight, repair the coupler in accordance with a method approved by the Manager, Seattle ACO.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 18, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–16569 Filed 6–24–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM97–3–000]

Research, Development and Demonstration Funding; Notice of Extension of Comment Period

Issued June 19, 1997.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On April 30, 1997, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking (62 FR 24853, May 7, 1997) proposing to amend its research, development and demonstration regulations to propose a new funding mechanism for the Gas Research Institute. The date for filing further comments in this docket is being extended at the request of various interested entities.

DATES: Comments shall be filed on or before August 29, 1997.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Lois D. Cashell, Secretary, 202–208–0400.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16588 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

Privacy Program

AGENCY: Office of the Secretary, DOD.

ACTION: Proposed rule.

SUMMARY: In accordance with the Privacy Act of 1974, the Office of the Secretary of Defense (OSD) proposed to exempt a new system of records, DFM&P 26, entitled Vietnamese Commandos Compensation Files, from certain provisions of 5 U.S.C. 552a. Exemption is needed to comply with the prohibition against disclosure of properly classified portions of this record system.

DATES: Comments must be received no later than August 25, 1997, to be considered by the agency.

ADDRESSES: Send comments to the OSD Privacy Act Officer, Washington Headquarter Services, Correspondence and Directives Division, Records Management Division, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 695–0970.

SUPPLEMENTARY INFORMATION: Executive Order 12866. It has been determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan

programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act. It has been determined that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. It has been determined that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act, and 44 U.S.C. Chapter 35.

List of Subjects in 32 CFR part 311

Privacy.

Accordingly, 32 CFR part 311 is amended as follows:

1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub.L. 93–579, 88 Stat 1896 (5 U.S.C.552a).

2. Section 311.7 is amended by adding paragraphs (c)(10)(i) through (c)(10)(iii) to read as follows:

§ 311.7 Procedures for exemptions.

* * * * *

(c) * * *

(10) *System identifier and name*: DFMP 26, Vietnamese Commando Compensation Files.

(i) *Exemption:* Information classified under E.O. 12958, as implemented by DoD 5200.1-R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(ii) *Authority:* 5 U.S.C. 552a(k)(1).

(iii) *Reasons:* From subsection 5 U.S.C. 552a(d) because granting access to information that is properly classified pursuant to E.O. 12958, as implemented by DoD 5200.1-R, may cause damage to the national security.

Dated: June 19, 1997.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 97–16567 Filed 6–24–97; 8:45 am]

BILLING CODE 5000–04–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[GC Docket No. 97–143; FCC 97–198]

Implementation of the Electronic Freedom of Information Act Amendments of 1996

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This order proposes to amend the Commission's rules regarding implementation of the Electronic Freedom of Information Act Amendments of 1996 to comply with the changes mandated by the Electronic Freedom of Information Act Amendments of 1996. This proceeding will make it easier for the public to request access under the FOIA to the Commission's records.

DATES: Comments are due on or before July 25, 1997 and Reply comments are due on or before August 8, 1997.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Laurence H. Schecker, Office of General Counsel, (202) 418–1720.

SUPPLEMENTARY INFORMATION:

Adopted: June 5, 1997.
Released: June 19, 1997.

I. Introduction

1. In this NPRM, we propose to amend Part 0 of the Commission's Rules to implement the amendments to the Freedom of Information Act (''FOIA'') that were enacted in the Electronic Freedom of Information Act Amendments of 1996 (''EFOIA'').[1]

2. The FOIA, which establishes a right of access to Federal agency records, was enacted 30 years ago, before the extensive use of computers to create and retain records in electronic formats. With the advent and widespread acceptance of new information technologies, questions increasingly arose about how electronic records should be handled under the FOIA. The EFOIA, signed into law on October 2, 1996, ''bring[s] FOIA into the information and electronic age'' [2] through amendments that directly address electronic records. The EFOIA also addresses procedural aspects of the FOIA, including the time limits for processing FOIA requests.

3. Several of the Commission's FOIA rules must be revised to conform to the provisions of the EFOIA. We therefore initiate this proceeding to implement the EFOIA amendments.

II. Discussion

4. To implement the EFOIA amendments, we seek comment on the proposed revisions to our FOIA rules set forth below. The proposals are intended to conform our rules to express requirements of the EFOIA. In addition, as directed by the EFOIA, we propose new rules to provide for the expedited processing of FOIA requests.

5. *Form or Format Requests.* A significant change enacted in the EFOIA is the requirement that agencies honor requests that records be provided in specific formats, including electronic formats, so long as the records are ''readily reproducible by the agency in that form or format.'' [3] Prior to this amendment, agencies were under no obligation to accommodate a FOIA requester's preferences as to format.[4] We propose to amend § 0.461(a) of our rules to reflect this new requirement.

6. *Time for Processing Initial FOIA Requests.* The EFOIA provides that, effective October 2, 1997, agencies will have 20 working days (rather than the current 10 working days) to respond to initial FOIA requests.[5] To implement the statutory amendment, we propose to amend § 0.461(g) of our FOIA rules.[6]

7. The EFOIA further recognizes that in some circumstances, agencies may need more than 20 working days to process FOIA requests. Prior to the EFOIA's enactment, agencies were permitted to extend the time for responding to initial FOIA requests an additional 10 working days,[7] and these provisions remain in effect. However, if an extension of more than 10 working days is sought, the EFOIA amendments require that an agency provide requesters with the opportunity both to limit the scope of their requests to enable processing within the 10 day statutory time limit for extensions, or to negotiate an alternate time frame for processing requests.[8] We propose to

[1] Public Law 104–231, 110 Stat. 3048 (1996), *codified at scattered subsections of* 5 U.S.C. 552.

[2] President Clinton's Statement on Signing H.R. 3802, The Electronic Freedom of Information Act Amendments (October 2, 1996).

[3] EFOIA 5, *codified at* 5 U.S.C. 552(a)(3)(B).

[4] *See* H.R. Rep. No. 795, 104th Cong., 2d Sess. 21 (1996) (House Report), *citing Dismukes* v. *Department of the Interior,* 603 F. Supp. 760, 763 (D.D.C. 1984).

[5] EFOIA § 8(b), *codified at* 5 U.S.C. 552(a)(6)(A)(i). *See* House Report at 26–27.

[6] 47 CFR 0.461(g).

[7] Former 5 U.S.C. 552(a)(3)(B); 47 CFR 0.461(g).

[8] EFOIA § 7(b), *codified at* 5 U.S.C. 552(a)(6)(B). If the requester refuses either option, or no agreement can be reached with the agency, a court must take this into account in considering whether

amend § 0.461(g) of our FOIA rules to reflect these changes.[9]

8. *Expedited Processing.* The EFOIA requires agencies to promulgate through a notice and comment rulemaking regulations to consider requests for ''expedited processing'' of initial FOIA requests.[10] Such requests must be granted whenever a ''compelling need'' is shown and may be granted in other cases as determined by the agency.[11] ''Compelling need'' is defined in the EFOIA as (1) involving ''an imminent threat to the life or physical safety of an individual'';[12] or (2) in the case of a request made by ''a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.''[13] When a request for expedited processing is made, an agency must notify the requester of its decision whether or not to grant the request for expedition within 10 calendar days.[14] If expedited processing is granted, an agency must process the request as soon as practicable.[15] If the request is denied, an agency must grant expedited consideration of appeals of such a denial.[16]

9. To implement the expedited processing requirements of the EFOIA amendments, we propose to amend section 0.461 of our FOIA rules by adding a new paragraph (h). Our proposal for the most part tracks the language of the statute. The proposed rules place on the requester the burden of demonstrating a compelling need.[17] As required by 5 U.S.C. 552(a)(6)(E)(ii)(II), the rules also must provide for administrative appeals of a denial of a request for expedited processing. We propose to allow for the filing of an application for review within five working days of the denial of a request for expedited processing. The Commission will act expeditiously on such applications.

10. *Miscellaneous Revisions.* The EFOIA requires that the Commission make available a guide for requesting records or information from the Commission.[18] The Commission's Public Service Division of the Office of Public Affairs has long published annually a guide to finding information at the FCC.[19] We propose to amend § 0.443 of our rules to reflect the availability of this important resource tool for the public. We also propose to amend our rules to reflect the availability of Commission records and information on the Internet.

III. Procedural Matters

11. *Ex Parte.* This is a permit-but-disclose rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. *See* 47 CFR 1.1202, 1.1203, and 1.1206(a).

12. *Regulatory Flexibility Act Certification.* Section 603 of the Regulatory Flexibility Act, as amended (''RFA''),[20] requires an initial regulatory flexibility analysis in notice and comment rulemaking proceedings unless we certify that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.''[21] The purpose of this Notice is to implement the amendments to the FOIA enacted through the EFOIA. In particular, the proposed rules concern time limits for processing FOIA requests, requests for expedited processing, and requests that records be produced in specific formats. The proposed rules for the most part simply adopt the language of the EFOIA amendments. There is no reason to believe that the revised rules will impose any costs on FOIA requesters beyond those costs incurred under our former rules. Accordingly, we certify, pursuant to section 605(b) of the RFA, that the proposed rules will not have a significant economic impact on a substantial number of small entities. The Secretary shall send a copy of this certification to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this certification will also be published in the **Federal Register**.

13. *Filing Comments.* Pursuant to the procedures set forth in 47 CFR 1.415 and 1.419, interested parties may file comments on or before July 25, 1997, and reply comments on or before August 8, 1997 after publication of this proposed rule in the **Federal Register**. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, DC 20554. Parties should also submit one copy of any documents filed in this docket with ITS, 2100 M Street, N.W., Suite 140, Washington, DC 20037. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554.

14. *Contact Persons.* For further information concerning this proceeding contact Laurence H. Schecker or Linda P. Armstrong, Office of General Counsel, at (202) 418–1720.

IV. Ordering Clause

15. Accordingly, *it is ordered* that pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 154(j), and the Electronic Freedom of Information Act Amendments of 1996, Public Law 104–231, 110 Stat. 3048 (1996), a Notice of Proposed Rulemaking is hereby adopted.

List of Subjects in 47 CFR Part 0

Freedom of information.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

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to afford an agency additional time to process the request. EFOIA 7, *codified at* 5 U.S.C. 552(a)(6)(B)(ii) and 552(a)(6)(C).

[9] 47 CFR 0.461(g).

[10] EFOIA 8(a), *codified at* 5 U.S.C. 552(a)(6)(E).

[11] EFOIA 8(a), *codified at* 5 U.S.C. 552(a)(2)(E)(i).

[12] 5 U.S.C. 552(a)(6)(E)(v)(I). The House Report at 26 explains that ''A threat to an individual's life or physical safety qualifying for expedited access should be imminent. A reasonable person should be able to appreciate that a delay in obtaining the requested information poses such a threat.''

[13] 5 U.S.C. 552(a)(6)(E)(v)(II). According to the House Report at 26, to qualify for expedited processing, the dissemination of information must be the ''main activity'' of the requester. The ''urgency to inform'' standard requires that the information requested pertain to ''a matter of current exigency to the American public'' and that delay would compromise a significant recognized interest, but, by itself, the public's right to know is not enough.

[14] 5 U.S.C. 552(a)(2)(E)(ii)(I).

[15] 5 U.S.C. 552(a)(6)(E)(iii).

[16] 5 U.S.C. 552(a)(6)(E)(ii)(II).

[17] *See House Report at 25 (requester bears the burden of showing expedition is appropriate).*

[18] EFOIA § 11, *codified at* 5 U.S.C. 552(g). *See House Report at 29–30.*

[19] *Information Seekers Guide: How to Find Information at the FCC,* Public Service Division, Office of Public Affairs, FCC (January 1997).

[20] 5 U.S.C. 603.

[21] 5 U.S.C. 605(b).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE25

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant Eriogonum Apricum (Ione Buckwheat) and Proposed Threatened Status for the Plant Arctostaphylos Myrtifolia (Ione Manzanita)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for *Eriogonum apricum* (inclusive of vars. *apricum* and *prostratum*) (Ione buckwheat). The Service also proposes threatened status for *Arctostaphylos myrtifolia* (Ione manzanita). These two species occur primarily on soils derived from the Ione Formation in Amador or Calaveras counties in the central Sierra Nevada foothills of California and are imperiled by one or more of the following factors—mining, clearing of vegetation for agriculture and fire protection, disease, inadequate regulatory mechanisms, habitat fragmentation, residential and commercial development, changes in fire frequency, and continued erosion due to prior off-road vehicle use. Random events increase the risk to the few, small populations of *E. apricum*. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for these plants.

DATES: Comments from all interested parties must be received by August 25, 1997. Public hearing requests must be received by August 11, 1997.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Sacramento Field Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821–6340. Comments and materials received, as well as the supporting documentation used in preparing the rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kirsten Tarp, Sacramento Field Office (see ADDRESSES section) (telephone 916/979–2120; facsimile 916/979–2128).

SUPPLEMENTARY INFORMATION:

Background

Arctostaphylos myrtifolia (Ione manzanita), *Eriogonum apricum* var. *apricum* (Ione buckwheat), and *Eriogonum apricum* var. *prostratum* (Irish Hill buckwheat) are found primarily in western Amador County, about 70 kilometers (km) (40 miles (mi)) southeast of Sacramento in the central Sierra Nevada foothills of California. Most populations occur at elevations between 90 and 280 meters (m) (280 to 900 feet (ft)). A few isolated occurrences of *A. myrtifolia* occur in adjacent northern Calaveras County.

Both species included in this proposal exhibit marked substrate preferences and grow in openings within chaparral vegetation on lateritic soils crusts (cement-like crusts of yellow iron oxide) developed under a subtropical or tropical climate during the Eocene (35–57 million years before present); the laterite is associated with the Ione Formation (Allen 1929). The ''Ione soils'' in the area are coarse-textured and exhibit soil properties typical of those produced under tropical climates such as high acidity, high aluminum content, and low fertility (Singer 1978). These soils and the sedimentary deposits with which they are associated also contain large amounts of commercially valuable minerals including quartz sands, kaolinitic clays, lignite (low-grade coal), and possible gold-bearing gravels (Chapman and Bishop 1975). The nearest modern-day relatives to these soils occur in Hawaii and Puerto Rico (Singer 1978).

The vegetation in the Ione area is distinctive enough to be designated as ''Ione chaparral'' in a classification of plant communities in California (Holland 1986). Stebbins (1993) characterized the Ione chaparral as an ecological island, which he defined as a relatively small area with particular climatic and ecological features that differ significantly from surrounding areas. This plant community occurs only on very acidic, nutrient-poor, coarse soils, and is comprised of low-growing heath-like shrubs and scattered herbs (Holland 1986). The dominant shrub is *Arctostaphylos myrtifolia*, which is narrowly endemic to the area. Ione chaparral is restricted in distribution to the vicinity of Ione in Amador County, and a few local areas of adjacent northern Calaveras County where the community is estimated to cover 2,430 hectares (ha) (6,000 acres (ac)) (California Natural Diversity Database (CNDDB) 1994). The endemic plants that grow here are thought to do so because they can tolerate the acidic, nutrient-poor conditions of the soil which exclude other plant species; the climate of the area may be moderated by its position due east of the Golden Gate (Gankin and Major 1964, Roof 1982).

Discussion of the Two Species Proposed for Listing

Parry (1887) described *Arctostaphylos myrtifolia* based upon material collected near Ione, California. Subsequent authors variously treated this taxon as *Uva-ursi myrtifolia* (Abrams 1914), *A. nummularia* var. *myrtifolia* (Jepson 1922), *Schizococcus myrtifolius* (Eastwood 1934), and *Arctostaphylos uva-ursi* ssp. *myrtifolia* (Roof 1982). Wells (1993), in his treatment of California *Arctostaphylos*, maintained the species as *A. myrtifolia.*

Arctostaphylos myrtifolia is an evergreen shrub of the heath family (Ericaceae) that lacks a basal burl. Attaining a height of generally less than 1.2 m (3.8 ft), plants appear low and spreading. The bark is red, smooth, and waxy. Olive green, narrowly elliptic leaves are 6 to 15 millimeters (mm) (0.2 to 0.6 inches (in.)) long. Red scale-like inflorescence bracts are 1 to 2 mm (0.1 in.) long. White or pinkish urn-shaped flowers appear from January to February. The fruit is cylindric. The species depends almost entirely on fire to promote seed germination (Wood and Parker 1988). *Arctostaphylos myrtifolia* can be distinguished from other species in the same genus by its smaller stature and the color of its leaves.

Arctostaphylos myrtifolia is reported from 17 occurrences (CNDDB 1997). Because most of these occurrences are based on the collection localities of individual specimens, it is uncertain how many stands these 17 occurrences represent. *Arctostaphylos myrtifolia* may occur in about 100 individual stands which cover a total of about 400 ha (1,000 ac) (Roy Woodward, Bechtel, *in litt.* 1994). It occurs primarily on outcrops of the Ione Formation within an area of about 91 square (sq.) km (35 sq. mi) in Amador County. In addition, a few disjunct populations occur in Calaveras County. The populations range in elevation from 60 to 580 m (190 to 1900 ft), with the largest populations occurring at elevations between 90 and 280 m (280 and 900 ft) (Wood and Parker 1988). *Arctostaphylos myrtifolia* is the dominant and characteristic species of Ione chaparral, where it occurs in pure stands. It also occurs in an ecotone with surrounding taller chaparral types, but it does not persist if it is shaded (R. Woodward, *in litt.* 1994). It is impossible to quantify the amount of *A. myrtifolia* habitat already lost to mining because information

regarding the total mineral production as well as the total acreage of land newly disturbed by a mining operation is proprietary (Maryann Showers, California Department of Mining and Geology, pers. comm. 1994). Although the exact area of habitat lost is unknown, a significant loss of habitat has occurred (Roof 1982; Stebbins 1993; Wood, *in litt.* 1994). Mining, disease, clearing of vegetation for agriculture and fire protection, inadequate regulatory mechanisms, habitat fragmentation, residential and commercial development, changes in fire frequency, and ongoing erosion threaten various populations of this plant (CNDDB 1997; Ed Bollinger, Acting Area Manager, Bureau of Land Management (BLM), Folsom Resource Area, *in litt.* 1994, Michael Wood, Botanical Consultant, *in litt.* 1994). *Arctostaphylos myrtifolia* occurs primarily on private or non-Federal lands. The BLM manages one occurrence on the Ione Manzanita Area of Critical Environmental Concern (ACEC). Four small, pure populations and several smaller, mixed populations also occur on the state-owned Apricum Hill Ecological Reserve managed by the California Department of Fish and Game (CDFG) (Wood and Parker 1988).

Eriogonum apricum comprises two varieties—*Eriogonum apricum* var. *apricum* and *E. apricum* var. *prostratum*. Descriptions are provided below for each of the varieties.

Howell described the species *Eriogonum apricum* (Ione buckwheat) in 1955 based on a specimen collected in the foothills of the Sierra Nevada near Ione, Amador County, California. Myatt described a variety of the Ione buckwheat, *E. apricum* var. *prostratum* (Irish Hill buckwheat) in 1970. According to the rules for botanical nomenclature, when a new variety is described in a species not previously divided into infraspecific taxa, an autonym (an automatically generated name) is created. In this case, the autonym is *Eriogonum apricum* var. *apricum*.

Both varieties, *Eriogonum apricum* vars. *apricum* and *prostratum*, are perennial herbs in the buckwheat family (Polygonaceae). *Eriogonum apricum* var. *apricum* is glabrous (smooth, without hairs or glands) and grows upright to 8 to 20 centimeters (cm) (3 to 8 in.) in height. Its leaves are basal, round to oval, and 3 to 5 mm (0.1 to 0.3 in.) wide. The calyx (outer whorl of flower parts) is white with reddish midribs. *Eriogonum apricum* var. *apricum* flowers from July to October, and is restricted to 9 occurrences occupying a total of approximately 4 ha (10 ac) (The Nature Conservancy 1984) on otherwise barren outcrops within the Ione chaparral. Of the 9 known occurrences of *E. apricum* var. *apricum*, one is partially protected by CDFG (CNDDB 1994). *Eriogonum apricum* var. *apricum* occurs primarily on private or non-Federal land; BLM manages one occurrence. Mining, clearing of vegetation for agriculture and for fire protection, inadequate regulatory mechanisms, habitat fragmentation, increased residential development, and erosion threaten both populations of this plant.

Eriogonum apricum var. *prostratum* has smaller leaves, a prostrate habit (lying flat), and an earlier flowering time than *E. apricum* var. *apricum*. The 2 known occurrences of *E. apricum* var. *prostratum* are restricted to otherwise barren outcrops on less than 0.4 ha (1 ac) in openings of Ione chaparral on private land. Mining, inadequate regulatory mechanisms, habitat fragmentation, erosion, and random events threaten the occurrences of this plant.

Previous Federal Action

Federal government actions on both plants began as a result of section 12 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975, and included *Arctostaphylos myrtifolia*, *Eriogonum apricum* var. *apricum* and *E. apricum* var. *prostratum* as endangered species. The Service published a notice on July 1, 1975 (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3) of the Act) and its intention to review the status of the plant taxa named therein. The above three taxa were included in the July 1, 1975, notice. On June 16, 1976, the Service published a proposal (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Arctostaphylos myrtifolia*, *E. apricum* var. *apricum*, and *E. apricum* var. *prostratum* were included in the June 16, 1976, **Federal Register** document.

General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, rule (43 FR 17909). Amendments to the Act in 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. In a December 10, 1979, notice (44 FR 70796), the Service withdrew the June 16, 1976, proposal, along with four other proposals that had expired.

The Service published a Notice of Review for plants on December 15, 1980 (45 FR 82480) that listed those plants currently considered for listing as endangered or threatened. The three taxa were included as candidates for Federal listing in this document. Candidate taxa are those for which the Service has on file substantial information on biological vulnerability and threats to support preparation of listing proposals. The November 28, 1983, supplement to the Notice of Review (48 FR 53640) made no changes to the designation for these taxa.

The plant notice was revised again on September 27, 1985 (50 FR 39526), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144). In these three notices, *Arctostaphylos myrtifolia*, *Eriogonum apricum* var. *apricum* and *E. apricum* var. *prostratum* were again included as candidates. All three taxa were also included as candidates in the February 28, 1996, Notice of Review (61 FR 7596).

Section 4(b)(3)(B) of the Act requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Arctostaphylos myrtifolia*, *Eriogonum apricum* var. *apricum* and *E. apricum* var. *prostratum*, because the 1975 Smithsonian report had been accepted as a petition. On October 13, 1982, the Service found that the petitioned listing of these species was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(I) of the Act. The finding was reviewed annually in October of 1983 through 1994. Publication of this proposal constitutes the final finding for the petitioned action.

Eriogonum apricum has a listing priority number of 2 (each variety has a listing priority number of 3).

Arctostaphylos myrtifolia has a listing priority number of 8. Processing of this rule is a Tier 3 action under the current listing priority guidance (61 FR 64480).

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists of endangered and threatened species. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Arctostaphylos myrtifolia* C. Parry (Ione manzanita) and *Eriogonum apricum* J. Howell (inclusive of vars. *apricum* and *prostratum* R. Myatt) (Ione buckwheat) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Nearly all occurrences of both plant species occur on private or non-Federal land. The primary threat facing both species is the ongoing and threatened destruction and modification of their habitat by mining for silica sand, clay, lignite, common sand and gravel, and reclamation of mined lands to vegetation in which these species cannot exist. A lesser degree of threat is posed by commercial or residential development, clearing for agriculture and fire protection, and continued erosion due to previous fireline construction and a driver training course used by fire fighters.

The habitat of *Arctostaphylos myrtifolia* and *Eriogonum apricum* occurs in areas that contain valuable minerals. Clay mining began in the Ione area around 1860. Since this time, the Ione area has produced about a third of the fire clay in California (Chapman and Bishop 1975). Lignite, a low-grade coal, also has been mined in the Ione area since the early 1860's, initially as a fuel source, but more recently for wax used for industrial purposes. Chapman and Bishop (1975) reported the Ione lignites were the only lignites used commercially in the United States in the production of a specialized wax (montan wax). Quartz sand used in making glass containers, and laterite, used for making cement, also are commercially mined in the Ione area (Chapman and Bishop 1975). Common sands and gravels are also mined for various uses. Mining of all of these deposits has resulted in the direct removal of habitat for both plant species (Michael Wood, Botanical Consultant, *in litt.* 1994; Wood and Parker 1988; V. Thomas Parker, San Francisco State University, *in litt.* 1994). Strip mining of silica for glass and clay for ceramics and industrial filters has extirpated populations of *A. myrtifolia* north and south of Highway 88 (Roof 1982).

By 1982, a significant amount of habitat already had been lost (Roof 1982; Stebbins 1993; Wood, *in litt.* 1994). Fifteen active surface mines on private land near Ione continue to remove the habitat of both plants; approved reclamation plans show that in excess of 1,400 ha (3,500 ac) of surface removal will occur (mining reports on file at California Department of Geology and Mines; CDFG 1992; V. Thomas Parker, *in litt.* 1994; Michael K. Wood, *in litt.* 1994). The exact amount of habitat loss to date cannot be quantified because information regarding the total mineral production as well as the total acreage of land newly disturbed by a mining operation is proprietary (Maryann Showers, pers. comm. 1994). Based on an estimate derived from mining reports on file at California Department of Geology and Mines, over half of the Ione chaparral habitat, numerous stands of *Arctostaphylos myrtifolia*, and most of the occurrences of *Eriogonum apricum* occur within areas that will be impacted by the 15 mines. Mining has eliminated several populations of *A. myrtifolia* south of Ione since 1990 (V. Thomas Parker, *in litt.* 1994). The East Lambert Project, a proposed open pit to mine clay, lignite, and silica, if approved, would remove part of a population of *A. myrtifolia.* Clay mining threatens one of the two remaining populations of *Eriogonum apricum* var. *prostratum* (CDFG 1991). The second population is not protected and potentially could be mined (CDFG 1991). Most of the 9 populations of *E. apricum* var. *apricum* occur on private land that is not protected and could be mined.

As discussed in Factor D, mining reclamation results in conversion of former habitat to rangeland, pasture, and other agricultural uses. Additionally, once the area is mined, the specialized substrate required by the plants may no longer be present. This type of disturbance permanently precludes restoration of habitat suitable for *Arctostaphylos myrtifolia* and *Eriogonum apricum*. To a lesser extent, land conversion to grazing and agriculture also has degraded or destroyed the habitat for these plants (Michael Wood, *in litt.* 1994; Wood and Parker 1988; V. Thomas Parker, *in litt.* 1994). Both activities continue to pose threats to the habitat of the subject plant taxa.

Commercial and residential development also threatens the habitat of *Arctostaphylos myrtifolia*. In 1993, a 43 ha (107 ac) parcel in the City of Ione reported to have *A. myrtifolia* was cleared, presumably to facilitate future development (Randy L. Johnsen, Ione City Administrator, *in litt.* 1994). The Amador County master plan has zoned an area in the northern Ione chaparral near Carbondale for industrial uses. This area of about 75 ha (185 ac) is proposed to be developed over the next 10 years (Ron Mittlebrunn, Amador Council of Economic Development, pers. comm. 1994). Zoning for most lands outside the City of Ione permits one house on 16 ha (40 ac) density (Gary Clark, Amador County Planning Department, *in litt.* 1994). Habitat loss and degradation outside the City of Ione results from development of small ranches and associated clearing for fire protection, pastures, buildings, and infrastructure (G. Clark, *in litt.* 1994). Clearing destroys individual plants of both species and fragments and degrades the habitat.

Mining operations, land clearing for agriculture; and commercial and residential development have fragmented and continue to fragment and isolate the habitat of *Arctostaphylos myrtifolia* in Amador County. Habitat fragmentation may disrupt natural ecosystem processes by changing the amount of incoming solar radiation, water, wind, and/or nutrients (Saunders *et al.* 1991) and further exacerbates the impacts of mining, off-road vehicular use, and other human activities.

The population of *Arctostaphylos myrtifolia* occurring on the BLM Ione Manzanita ACEC was degraded by California Department of Forestry's training activities. Building firelines and conducting driver training courses resulted in a criss-crossing of roads and trails within the ACEC that reduced and fragmented the habitat (BLM 1989). Although these practices were discontinued in 1991 the roads have not revegetated naturally and continued erosion of the roads and adjacent habitat remains a concern (Ed Bollinger, BLM, Folsom Resource Area, *in litt.* 1994).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Overutilization is not currently known to be a factor for the two plants, but unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could potentially result for *Eriogonum apricum* from increased publicity as a result of this proposal.

C. *Disease or predation.* Livestock graze one population of *Eriogonum apricum* var. *prostratum*, but grazing is not considered to be harmful (CNDDB

1994). An unidentified fungal pathogen has caused major die-back of partial or entire stands of *Arctostaphylos myrtifolia* throughout its range (Wood and Parker 1988; Wood, *in litt.* 1994). The majority of populations of *A. myrtifolia* show signs of die-back. The fungal disease is a serious problem for the populations south of Ione (M. Wood, pers. comm. 1994). Stands along Highway 88 that were healthy a few years ago are being killed with little evidence of seedlings regeneration (Neil Havlik, Solano County Farmland and Open Space Foundation, pers. comm. 1994). Wood and Parker conducted a series of controlled burns to test the regeneration of stands that had no, partial, and complete die-back. To date, stands that were completely killed by the fungus before burning have not regenerated. Healthy and partially affected stands regenerated, but it is not yet known if this regeneration will result in healthy stands (M. Wood, *in litt.* 1994).

D. *The inadequacy of existing regulatory mechanisms. Eriogonum apricum* vars. *apricum* and *prostratum* are listed as endangered under the California Endangered Species Act (chapter 1.5 section 2050 *et seq.* of the California Fish and Game Code and Title 14 California Code of Regulations 670.2). Individuals are required to obtain a management authorization with the California Department of Fish and Game (CDFG) to possess or ''take'' a listed species under the California Endangered Species Act. Although the ''take'' of State-listed plants is prohibited (California Native Plant Protection Act, chapter 10 sec. 1908 and California Endangered Species Act, chapter 1.5 sec. 2080), State law appears to exempt the taking of such plants via habitat modification or land use changes by the owner. This State law does not necessarily prohibit activities that could extirpate this species. After CDFG notifies a landowner that a State-listed plant grows on his or her property, State law requires only that the land owner notify the agency ''at least 10 days in advance of changing the land use to allow salvage of such a plant'' (Native Plant Protection Act, chapter 10 sec. 1913). Ten days may not allow adequate time for agencies to coordinate the salvage of the plants.

The California Environmental Quality Act (CEQA) (chapter 2 section 21050 *et seq.* of the California Public Resources Code) requires a full disclosure of the potential environmental impacts of proposed projects. The public agency with primary authority or jurisdiction over the project is designated as the lead agency and is responsible for conducting a review of the project and consulting with the other agencies concerned with the resources affected by the project. Section 15065 of the CEQA guidelines, now undergoing amendment, requires a finding of significance if a project has the potential to ''reduce the number or restrict the range of a rare or endangered plant or animal.'' Species that are eligible for listing as rare, threatened, or endangered are given the same protection as species officially listed under the State or Federal governments. Once significant effects are identified, the lead agency has the option to require mitigation for effects through changes in the project or to decide that overriding considerations make mitigation infeasible. In the latter case, projects may be approved that cause significant environmental damage, such as the destruction of State-listed endangered species. The protection of *Eriogonum apricum* var. *apricum*, E. *apricum* var. *prostratum*, and *Arctostaphylos myrtifolia* under CEQA is therefore dependent upon the discretion of the lead agency.

Section 21080(b) of CEQA allows certain projects to be exempted from the CEQA process. Ministerial projects, those projects that the public agency must approve after the applicant shows compliance with certain legal requirements, may be approved or carried out without undertaking CEQA review. Examples of ministerial projects include final subdivision map approval and most building permits (Bass and Herson 1994).

The California Surface and Mining Reclamation Act of 1975 (CSMRA) (chapter 9, section 2710 *et seq.* of the California Public Resources Code) requires that adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a useable condition that is readily adaptable for alternative land uses. Although CSMRA requires reclamation for mining activities, the standards for reclamation and the success of any revegetation is judged on the approved end use of the land. Approved examples of these end uses for mining activities within the Ione area include water storage for irrigation, grazing, rangeland, seeding with grasses for pasture, and intensive agriculture (mining reports on file at California Department of Geology and Mines). CSMRA does not require replacement of the same vegetation type, species, or percentage of vegetation cover as the habitat that is lost. No approved mining reclamation plans included measures to attempt restoration of either *Arctostaphylos myrtifolia* or *Eriogonum apricum*, although one plan indicated an intention to allow *A. myrtifolia*, known to occur on the site, to re-establish itself (mining reports on file at California Department of Geology and Mines). As a result, reclamation of mining impacts will not result in re-establishment of the native vegetation. CSMRA also does not apply to the prospecting or extraction of minerals for commercial purposes, as well as the removal of material that lies above or between natural mineral deposits in amounts less than 760 cubic m (1,000 cubic yards) in any location of 0.4 ha (1 ac) or less.

CSMRA is also inadequate for protection of the species subject to this proposed rule because reclamation plans are required to be submitted only for operations conducted after January 1, 1976. Surface mining operations that were permitted or authorized prior to January 1, 1976, are not required to submit reclamation plans as long as no substantial changes are made in their operation. The lead agency is responsible for determining what constitutes a substantial change in operation.

Although the City of Ione General Plan and the Environmental Impact Report of the Banks annexation to the City of Ione includes the protection of *Arctostaphylos myrtifolia* and *Eriogonum apricum* as a goal, the City has no regulatory mechanism to stop land clearing and/or preserve natural habitat (R. Johnsen, *in litt.* 1994).

Two preserves support occurrences of *Arctostaphylos myrtifolia* and *Eriogonum apricum* var. *apricum*. The Apricum Hill Ecological Reserve, managed by the California Department of Fish and Game, is about 15.2 ha (37.5 ac). The Ione manzanita ACEC, managed by BLM, covers 35 ha (86 ac). Because both preserves are small, they are subject to edge effects such as shading by taller shrubs or competition with invasive vegetation (see Factor A and E for more detail).

E. *Other natural or manmade factors affecting its continued existence.* The effects of altered fire periodicity on *Arctostaphylos myrtifolia* have not been well studied. *Arctostaphylos myrtifolia* lacks the ability to crown sprout and is killed outright by fire. It must, therefore, reproduce by seed. Abundant post-fire seed germination has been reported by Roof (1982) and by Woodward (*in litt.* 1994) who also reported successful reestablishment of the species on ground scraped by tractors during a fire suppression operation. The response of *A. myrtifolia* to fire appears, however, to be irregular and unpredictable (Wood and Parker 1988).

Fire appears to be necessary for the long-term maintenance of the Ione chaparral community. Controlled burning may be a viable means of ensuring adequate reproduction of *Arctostaphylos myrtifolia,* or perhaps even controlling or preventing loss due to the fungal pathogen (M. Wood, *in litt.* 1994, V.T. Parker, *in litt.* 1994). Field observations and controlled experiments to date, however, suggest that caution be exercised in the use of fire until the reasons for the variability in the response of *A. myrtifolia* are better understood. Long term study sites established to study this response have been graded and cleared by the land owner (V.T. Parker, *in litt.* 1994, M. Wood, *in litt.* 1994).

Re-establishment in mined areas may be difficult for *Arctostaphylos myrtifolia* due to a lack of the required specialized substrate and an absence of proven propagation methods (E. Bollinger, *in litt.* 1994). Researchers have attempted a variety of germination and seed bank experiments without success (Wood and Parker 1988). Others have also attempted to cultivate the species with little or no success (R. Gankin, pers. comm., cited in Wood and Parker 1988). Although the plant has a limited capacity to root from its lower branches, Roof (1982) reported that he was unaware of even a single plant that had been grown or cultivated from a rooted branch. The only report of successful cultivation indicates that the plant requires high soil-acidity and heavy supplements of soluble aluminum (Roof 1982).

Throughout its range, on habitat edges where better soil development occurs, *Arctostaphylos myrtifolia* is being outcompeted by native vegetation. *Arctostaphylos viscida* (white-leaf manzanita), a more rapidly growing, taller manzanita, encroaches along the edge of stands of *A. myrtifolia,* shading individuals. *Arctostaphylos myrtifolia* is eliminated when *A. viscida* grows tall enough to shade it (M. Wood, pers. comm. 1994; Roy Woodward, *in litt.* 1994). This is not likely to be a significant threat to the species, however, because most stands occur on substrates from which taller shrubs are excluded.

As discussed in factor A, habitat fragmentation may alter the physical environment. Plant species may disappear from chaparral fragments that are from 10 to 100 ha in size due to persistent disturbance and potentially due to change in fire frequency (Soulé *et al.* 1992). In addition, habitat fragmentation increases the risks of extinction due to random environmental, demographic, or genetic events. The two small, isolated populations of *Eriogonum apricum* var. *prostratum,* makes random extinction more likely. Chance events, such as disease outbreaks, reproductive failure, extended drought, landslides, or combination of several such events, could destroy part of a single population or entire populations. A local catastrophe also could decrease a population to so few individuals that the risk of extirpation due to genetic and demographic problems inherent to small populations would increase.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to propose this rule. *Eriogonum apricum* (inclusive of vars. *apricum* and *prostratum*) is known from 11 populations on approximately 4 ha (10 ac) in Amador County, California. The species is endangered by mining, clearing of vegetation for agriculture and for fire protection, inadequate regulatory mechanisms, habitat fragmentation, residential and commercial development and ongoing erosion. *Eriogonum apricum* is in danger of extinction throughout all or a part of its range and the preferred action is, therefore, to list it as endangered. *Arctostaphylos myrtifolia* is reported from 17 sites, and estimated to occur in a total of about 100 stands covering about 400 ha (1,000) acres in Amador County, with a few occurrences in Calaveras County. It is threatened by mining, disease, clearing of vegetation for agriculture and for fire protection, inadequate regulatory mechanisms, habitat fragmentation, increased residential development and changes in fire frequency. Although *A. myrtifolia* faces many of the same threats as *Eriogonum apricum,* the significantly wider range and greater number of populations and individuals of *A. myrtifolia* moderate the threats. Thus, *A. myrtifolia* is not now in danger of extinction throughout a significant portion of its range, as is *E. apricum,* but is likely to become endangered within the foreseeable future. Therefore, the preferred action is to list *A. myrtifolia* as threatened. Other alternatives to this action were considered but not preferred because not listing *Eriogonum apricum* (inclusive of vars. *apricum* and *prostratum*) as endangered and *Arctostaphylos myrtifolia* as threatened would not provide adequate protection and not be in keeping with the purposes of the Act.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Eriogonum apricum* and *Arctostaphylos myrtifolia* at this time. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

Because *Eriogonum apricum* and *Arctostaphylos myrtifolia* face numerous human-caused threats (see Factors A and E in ''Summary of Factors Affecting the Species'') and occur predominantly on private land, the publication of precise maps and descriptions of critical habitat in the **Federal Register** would make these plant species more vulnerable to incidents of vandalism and, therefore, could contribute to the decline of these species and increase enforcement problems. A 43 ha (107 ac) parcel previously identified in a public document as habitat for these species was cleared in 1993, presumably to facilitate future development (R. Johnsen, *in litt.* 1994). The listing of *E. apricum* as endangered also publicizes the rarity of this plant and, thus, can make it attractive to researchers or collectors of rare plants.

Furthermore, critical habitat designation for *Arctostaphylos myrtifolia* and *Eriogonum apricum* is

not prudent due to lack of benefit. All but one occurrence of *E. apricum* and most occurrences of *Arctostaphylos myrtifolia* are on non-Federal land. Furthermore, since *E. apricum* has very specific habitat requirements and occupies a total of only about 4 ha (10 ac) at few locations, any activity that would adversely modify critical habitat or destroy plants would likely jeopardize the continued existence of *E. apricum*. Therefore, designation of critical habitat would provide little, if any, additional benefit beyond listing. The Service, therefore, concludes that designation of critical habitat is not prudent for these species both because such designation can be expected to increase the degree of threat to the species and because of a lack of benefit from such action.

Protection of the habitat of these species will be addressed through the recovery process and through the section 7 consultation process. The Service believes that Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. Therefore, the Service finds that designation of critical habitat for these plants is not prudent at this time, because such designation likely would increase the degree of threat from vandalism, collecting, or other human activities, and because it provides no benefits to the species beyond those which are provided by listing.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Almost all of the occurrences for both species are on private land. One population of *Arctostaphylos myrtifolia* and a population of *Eriogonum apricum* var. *apricum* occur on Federal land managed by the BLM. Other potential Federal involvement includes the construction and maintenance of roads and highways by the Federal Highway Administration (2 populations of *E. apricum* var. *apricum* occur along right-of-ways owned by Caltrans), the permitting of lignite or coal mines through the Federal Office of Surface Mining Reclamation and Enforcement, and the relicensing of hydroelectric projects by the Federal Energy Regulatory Commission.

Listing these two plant species would provide for development of a recovery plan (or plans) for them. Such plan(s) would bring together both State and Federal efforts for conservation of the plants. The plan(s) would establish a framework for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan(s) would set recovery priorities and estimate costs of various tasks necessary to accomplish them. It also would describe site-specific management actions necessary to achieve conservation and survival of the two plants. Additionally, pursuant to section 6 of the Act, the Service would be more likely to grant funds to affected states for management actions promoting the protection and recovery of these species.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered or threatened plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 for endangered plants and 17.71 for threatened plants, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits malicious damage or destruction on areas under Federal jurisdiction, and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including state criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation. This protection may apply to *Arctostaphylos myrtifolia* in the future if regulations are promulgated. Seeds from cultivated specimens of threatened plants are exempt from these prohibitions provided that their containers are marked ''Of Cultivated Origin'' appears on the shipping containers. Certain exceptions to the prohibitions apply to agents of the Service and state conservation agencies.

It is the policy of the Service (59 FR 34272) to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range. Less than 5 percent of the occurrences of the two species occur on public (Federal) lands. Collection, damage or destruction of these species on Federal lands is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection for scientific or recovery purposes. Such activities on non-Federal lands would constitute a violation of section 9 when conducted in knowing violation of California State law or regulations or in violation of State criminal trespass law. See factor D. for a discussion of California's law protecting plants.

Activities that are not prohibited by the Federal listing of these plants include livestock grazing, clearing a defensible space for fire protection around one's personal residence, and landscaping (including irrigation), around one's personal residence. Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Sacramento Field Office (see **ADDRESSES** section).

The Act and 50 CFR 17.62, 17.63 for endangered plants, and 17.72 for threatened plants, also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened plants under certain circumstances. Such permits are available for scientific

purposes and to enhance the propagation or survival or the species. For threatened plants, permits also are available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with the purposes of the Act. It is anticipated few trade permits would ever be sought or issued for the three species because the species are not common in cultivation or in the wild. Requests for copies of the regulations regarding listed species and inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (phone 503/231–2063, facsimile 503/231–6243).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. The Service will follow its current peer review policy (59 FR 34270) in the processing of this rule. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Arctostaphylos myrtifolia* and *Eriogonum apricum;*

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of these species; and

(4) Current or planned activities in the subject area and their possible impacts on these species.

Final promulgation of the regulation(s) on these species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. Such requests must be made in writing and addressed to the Field Supervisor, U. S. Fish and Wildlife Service, Sacramento Field Office, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821–6340.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements.

References Cited

A complete list of all references cited herein is available upon request from the Field Supervisor, Sacramento Field Office (see **ADDRESSES** section).

Author: The primary author of this proposed rule is Kirsten Tarp, U.S. Fish and Wildlife Service, Sacramento Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Arctostaphylos myrtifolia.	Ione manzanita	U.S.A. (CA)	Ericaceae	T	.....	NA	NA
*	*	*	*	*	*	*	
Eriogonum apricum (inclusive of vars. *apricum* and *prostratum*).	Ione buck wheat	U.S.A. (CA)	Polygonaceae	E	.....	NA	NA
*	*	*	*	*	*	*	

Dated: May 12, 1997.

John G. Rogers,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 97–16605 Filed 6–24–97; 8:45 am]

BILLING CODE 4310–55–U

Notices

Federal Register
Vol. 62, No. 122
Wednesday, June 25, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 20, 1997.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 and to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) May be obtained by calling (202) 720–6204 or (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Foreign Agricultural Service

Title: Regulations Covering CCC's Dairy Export Incentive Program (DEIP).

OMB Control Number: 0551–0029.

Summary of Collection: Information collected includes submission of: suitable performance security, entry certificates, offer to sell and request for appeal.

Need and Use of the Information: The information is used to determine eligibility for participation on the Dairy Export Incentive Program and to make sure the exporter has the experience necessary to perform under agreements entered into between CCC and the exporter.

Description of Respondents: Business or other for-profit.

Number of Respondents: 47.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 1,490.

Farm Service Agency

Title: Emergency Livestock Feed Assistance, Disaster Assistance and Livestock Indemnity Program (7 CFR 1439).

OMB Control Number: 0560–0029.

Summary of Collection: The emergency livestock feed assistance, disaster assistance, and livestock indemnity programs authorize the Secretary of Agriculture to assist in the preservation and maintenance of livestock in any area of the United States where the Secretary determines a livestock emergency exists.

Need and Use of the Information: These requirements are necessary for the proper performance of USDA's functions in administering provisions of the emergency livestock feed assistance, disaster assistance, and livestock indemnity programs.

Description of Respondents: Farms.

Number of Respondents: 60,000.

Frequency of Responses: Reporting: Monthly.

Total Burden Hours: 201,832.

Emergency processing of this submission has been requested by *June 23, 1997.*

Animal and Plant Health Inspection Service

Title: Porcine Reproductive and Respiratory Syndrome (PRRS).

OMB Control Number: 0579-None.

Summary of Collection: Information will be collected from pork producers concerning general farm management, biosecurity, disease and vaccination history, and source of breeding stock purchased in the last 12 months.

Need and Use of the Information: Information provided by this study would aid in the control or eradication of porcine reproductive and respiratory syndrome.

Description of Respondents: Farms, business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 268.

Frequency of Responses: Reporting: One-time.

Total Burden Hours: 1,179.

Emergency processing of this submission has been requested by *June 27, 1997.*

Foreign Agricultural Service

Title: Regulation Covering CCC's Export Enhancement Program (EEP).

OMB Control Number: 0551–0028.

Summary of Collection: Information collected includes submission of: suitable performance security entry certificates, offer of sell and request for appeal.

Need and Use of the Information: The information is used to determine eligibility for participation in the Export Enhancement Program and to make sure the exporter has the experience necessary to perform under agreements entered into between CCC and the exporter.

Description of Respondents: Business or other for-profit.

Number of Respondents: 40.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 2,797.

Rural Housing Service

Title: 7 CFR 1951–C, Offset of Federal Payments to USDA Borrowers.

OMB Control Number: 057–0119.

Summary of Collection: Borrowers may respond to administrative, salary or IRS offset by a written request for records, a written offer to repay or a written request for an appeal.

Need and Use of the Information: The information will be used to promulgate the policies and procedures of the Federal Collection Act of 1996.

Description of Respondents: Individuals or households, farmers, business or other for-profit.

Number of Respondents: 9,350.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 5,493.

Emergency processing of this submission has been requested by June 23, 1997.

Agricultural Marketing Service

Title: The National Organic Program.

OMB Control Number: 0581–New.

Summary of Collection: Procedures and handlers would need to be certified as organic producers and keep records necessary to support standards of organic production.

Need and Use of the Information: The information will be used to administer the Organic Foods Production Act of 1990.

Description of Respondents: Farms; Individuals or households; business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 4,694.

Frequency of Responses: Recordkeeping; Reporting; Third party disclosure: Annually.

Total Burden Hours: 4,599.

Donald Hulcher,

Departmental Clearance Officer.

[FR Doc. 97–16649 Filed 6–24–97; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Provincial Advisory Committee (PAC) will meet on July 10, 1997, in Tillamook, OR, at the Shilo Inn (Wilson River Room), 2515 N. Main (Highway 101), Tillamook, OR. The July 10 meeting will begin at 8:00 a.m. and continue until 3:30 p.m. Agenda items to be covered include: (1) Monitoring (completed and upcoming province-wide monitoring); (2) late-successional reserve assessments; (3) PAC subcommittees meet to focus on: what are key issues within topics (salmon, monitoring, water quality, timber), and what are desired accomplishments relating to these issues over the next 6–12 months? To be followed by discussion by full PAC; and (4) open public forum. All Oregon Coast Provincial Advisory Committee meetings are open to the public. An ''open forum'' is scheduled at 2:45 p.m. Interested citizens are encouraged to attend. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Trish Hogervorst, Public Affairs Officer, Bureau of Land Management, at (503) 375–5657, or write to Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, OR 97339.

Dated: June 17, 1997.

James R. Furnish,

Forest Supervisor.

[FR Doc. 97–16600 Filed 6–24–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Horry Electric Cooperative; Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from Horry Electric Cooperative for financing assistance from the Rural Utilities Service (RUS) related to the construct of a new warehouse facility in Horry County, South Carolina.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW, Washington, D.C. 20250–1571, telephone (202) 720–0468, E-mail at bquigel@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The new warehouse facility is proposed to be located just north of South Carolina Highway 165 northwest of Conway, South Carolina. The size of the proposed site for the new warehouse facility is approximately 23 acres.

The new warehouse facility will consist of a 25,739 square foot warehouse, a 8,9093 square foot vehicle storage and crew quarters building, and a 7,550 square foot apparatus shop. The three buildings will be one story and will be constructed mostly of metal with concrete block masonry facing up to the first 10 feet. Above the 10 feet will be metal panels finished with various colors as yet to be determined. The overall height of the building walls will be 19 to 20 feet. The walls of the vehicle storage building will be open so that vehicles can drive through the building. An area on the front of the proposed site abutting South Carolina Highway 165 will be reserved for a new administration building. It is unknown at this time when the construction on the administration building would begin. Most of site surrounding the three buildings will be covered with asphalt or concrete. These asphalt or concrete areas will be used for pole storage and a staging area for construction and maintenance crews that maintain Horry Electric Cooperative's distribution system. There will be approximately 100 parking places and one access drive into the site. A one-acre, water runoff detention pond will be located on the northeast corner of the property to comply with Horry County drainage requirements. The new warehouse facility will be surrounded by an 8-foot chain link fence topped but three strands of barbed wire.

RUS considered the alternatives of no action and expanding Horry Electric Cooperative's existing warehouse facility. Under the no action alternative, RUS would not approve financing assistance for construction of the new warehouse facility. Since RUS believes that Horry Electric Cooperative has a need to expand its district facility to provide adequate storage and parking facilities and to overcome a problem with traffic congestion at its existing warehouse, it has determined that the no action alternative is not acceptable. The expansion of the existing new warehouse is not practicable as there is not enough space available there for the needed storage and parking expansion. Also, traffic congestion is a problem at their existing warehouse facility.

Copies of the BER and FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Mr. Merrell W. Floyd, Horry Electric Cooperative, P.O. Box 119, Conway, South Carolina 29528–0119, telephone (803) 248–6040.

Dated: June 18, 1997

Adam M. Golodner,

Deputy Administrator, Program Operations.

[FR Doc. 97–16573 Filed 6–24–97; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

General License G-TEMP: Special Requirements (To Be Renamed License Exception TMP: Special Requirements)

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to

take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 12, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Bureau of Export Administration (BXA), Department of Commerce, Room 6877, 14th and Constitution Avenue, NW, Washington, DC 20230 (telephone No. (202) 482–3673).

SUPPLEMENTARY INFORMATION:

I. Abstract

If commodities shipped under License Exception TMP are for news-gathering purposes, the exporter must send BXA a copy of the packing list. Also, a TMP exporter must send BXA an explanatory letter if commodities shipped must be detained abroad beyond the 12 month limit. The information is used to determine whether or not an extension should be granted.

II. Method of Collection

The information will be collected in written form.

III. Data

OMB Number: 0694–0029.

Form Number: N/A.

Type of Review: Regular Submission.

Affected Public: Businesses and other for-profit institutions, small businesses or organizations.

Estimated Number of Respondents: 3.

Estimated Time Per Response: 20 minutes.

Estimated Total Annual Burden Hours: 1 hour.

Estimated Total Annual Cost: $15 for respondents—no equipment or other materials will need to be purchased to comply with the requirement.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 20, 1997.

W. Dan Haigler,

Chief, Management Control Division, Office of Management and Organization.

[FR Doc. 97–16660 Filed 6–24–97; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Application for Duplicate License

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 11, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Bureau of Export Administration (BXA), Department of Commerce, Room 6877, 14th and Constitution Avenue, NW, Washington, DC 20230 (telephone no. (202)482–3673).

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is necessary to identify original export licenses of respondents who request duplicate licenses for lost or destroyed licenses.

II. Method of Collection

The information will be collected in written form.

III. Data

When an export license has been lost or destroyed, exporters can obtain a duplicate license by submitting certain information to BXA. The information provided is used to identify the license so that a duplicate license can be issued.

OMB Number: 0694–0031.

Form Number: N/A.

Type of Review: Regular Submission.

Affected Public: Businesses and other for-profit institutions, small businesses or organizations.

Estimated Number of Respondents: 26.

Estimated Time Per Response: 16 minutes.

Estimated Total Annual Burden Hours: 7 hours.

Estimated Total Annual Cost: $105 for respondents—no equipment or other materials will need to be purchased to comply with the requirement.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 20, 1997.

W. Dan Haigler,

Chief, Management Control Division, Office of Management and Organization.

[FR Doc. 97–16661 Filed 6–24–97; am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; Amended Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of Antidumping Duty Administrative Reviews.

SUMMARY: On March 26, 1997, the Department of Commerce (the Department) published Antifriction Bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews, 62 FR 14391 (Amended Final Results). On May 27, 1997, the Court of International Trade (CIT) ordered the Department to correct three clerical errors in the Amended Final Results with respect to antifriction bearings (AFBs) from France sold by SNR Roulements (SNR). Accordingly, we are amending our amended final results of administrative reviews of the antidumping duty of orders on AFBs from France with respect to SNR. The reviews cover the period May 1, 1994, through April 30, 1995. The ''classes or kinds'' of merchandise covered by the reviews are ball bearings and parts thereof (BBs) and cylindrical roller bearings and parts thereof (CRBs).

EFFECTIVE DATE: June 25, 1997.

FOR FURTHER INFORMATION CONTACT: Andrea Chu or Thomas O. Barlow, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On March 26, 1997, the Department published the amended final results. The reviews cover the period May 1, 1994, through April 30, 1995 and the classes or kinds of merchandise covered by these reviews are BBs and CRBs. For a detailed description of the products covered under these classes or kinds of merchandise, including a compilation of all pertinent scope determinations, see the ''Scope Appendix'' of Antifriction Bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 62 FR 2081 (January 15, 1997) (Final Results).

Respondent SNR challenged the amended final results before the CIT, alleging clerical errors in the amended calculations for AFBs from France. On May 27, 1997, the CIT ordered the Department to correct certain errors and publish amended final results incorporating the corrections in the **Federal Register** by June 26, 1997. *See SNR Roulements* v. *United States*, Slip Op. 97–64, May 27, 1997.

The CIT ordered the Department to make the following corrections to its analysis for SNR: (1) Delete the OBS=50 instruction at line 1054 of the margin calculation program (this corrects the home market model match programming to ensure all models are available for the model-match exercise); (2) delete from the currency conversion calculations the variables reported in U.S. dollars for indirect selling expenses incurred in the home market on U.S. sales and inventory carrying cost incurred in the home market on U.S. sales; and (3) substitute total cost of production incurred in the home market for total value as the denominator in the calculation of the credit rate. We have amended SNR's margin calculations as the CIT has directed.

Amended Final Results of Reviews

As a result of the amended margin calculations as directed by the CIT, the following weighted-average percentage margins exist for the period May 1, 1994, through April 30, 1995:

Manufacturer/exporter and country	BBs rate (percent)	CRBs rate (percent)
SNR, France	3.05	6.41

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Because sampling and other simplification methods prevent entry-by-entry assessments, we will calculate wherever possible an exporter/importer-specific assessment rate for each class or kind of AFBs.

We will instruct the Customs Service to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the final results of these reviews (62 FR 2081) and as amended by this determination. These amended deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative reviews.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply is a violation of the APO.

This amendment of final results of reviews and notice are in accordance with section 751(f) of the Tariff Act (19 U.S.C. 1673(d)) and 19 CFR 353.28(c).

Dated: June 19, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–16682 Filed 6–24–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–609]

Color Picture Tubes From Japan; Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review of color picture tubes from Japan.

SUMMARY: On February 11, 1997, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on color picture tubes (CPTs) from Japan. The period of review (POR) is January 1, 1995 through December 31, 1995.

Based on our analysis of comments received we have made changes to the margin calculation, including correction of certain clerical errors. Therefore, the

final results differ from the preliminary results. The final weighted-average dumping margin is listed below in the section titled ''Final Results of Review.''

We have determined that sales have been made at less than normal value (NV) during the POR. Accordingly, we will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries.

EFFECTIVE DATE: June 25, 1997.

FOR FURTHER INFORMATION CONTACT: Charles Riggle or Thomas O. Barlow, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4733.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On February 11, 1997, the Department published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on CPTs from Japan. *See Color Picture Tubes From Japan; Preliminary Results of Antidumping Administrative Review*, 62 FR 6168 (February 11, 1997). We gave interested parties an opportunity to comment on our preliminary results and held a public hearing on April 16, 1997. The following parties submitted comments and rebuttal comments: the International Association of Machinists and Aerospace Workers, International Union of Electronic, Electrical, Salaried, Machine & Furniture Workers, AFL–CIO, and Industrial Union Department AFL–CIO (collectively ''the Unions''); Mitsubishi Electric Corporation, Mitsubishi Electronics, Inc., and Mitsubishi Consumer Electronics America, Inc. (collectively ''Mitsubishi'').

We have conducted this administrative review in accordance with section 751(a)(1) of the Act and 19 CFR 353.22.

Scope of Review

Imports covered by this review are shipments of CPTs from Japan. CPTs are defined as cathode ray tubes suitable for use in the manufacture of color televisions or other color entertainment display devices intended for television viewing. This merchandise is classifiable under the *Harmonized Tariff Schedule* (HTS) item numbers 8540.11.00.10, 8540.11.00.20, 8540.11.00.30, 8540.11.00.40, 8540.11.00.50 and 8540.11.00.60. The HTS item numbers are provided for convenience and customs purposes; our written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

Comment 1

The Unions argue that the Department should treat Mitsubishi's U.S. and its home market technical service expenses in the same manner. The Unions note that, whereas Mitsubishi claimed in its questionnaire response that home market technical service expenses were direct expenses, it claimed that its U.S. technical service expenses were indirect selling expenses. Based on Mitsubishi's explanation of these expenses, the Unions argue, there is no apparent distinction between the expenses incurred in the home market and those in the United States and, therefore, no basis for Mitsubishi's claim that the expenses should be treated differently.

Furthermore, the Unions claim that Mitsubishi bears the burden of demonstrating that its home market selling expenses are direct expenses and that its U.S. selling expenses are indirect expenses, citing *Timken Co.* v. *United States*, 673 F. Supp. 495, 513 (CIT 1987). The Unions assert that Mitsubishi failed to demonstrate that its home market technical service expenses warranted treatment as direct selling expenses. For example, the Unions argue, Mitsubishi failed, both in its questionnaire responses and during verification, to provide a detailed description of the technical services it provided or the nature of the customer visits which were the basis for Mitsubishi's calculation of the claimed technical service expenses. Specifically, the Unions claim, Mitsubishi failed to submit any evidence that the purposes of its customer visits were to solve technical problems related to the merchandise subject to review. Instead, the Unions argue, a review of record data indicates that the customer visits were more likely in the nature of routine customer visits rather than to solve specific technical problems, given the amount of time spent on such visits. Finally, the Unions claim that it strains credulity to believe that Mitsubishi incurred no technical service expenses for its U.S. sales of color televisions (manufactured from the imported CPTs) during the POR while incurring substantial technical service expenses on its home market sales of CPTs. Thus, the Unions argue, due to Mitsubishi's failure to substantiate its claim that expenses related to these customer visits were direct selling expenses and due to Mitsubishi's refusal to identify the specific technical problems with its home market sales that resulted in the claimed expenses, the Department should, for the final results, treat all of Mitsubishi's claimed home market technical service expenses as indirect selling expenses.

Mitsubishi counters that each market's expenses should be treated on their own merits and that a common name for an adjustment does not determine its treatment as a direct or an indirect expense. Mitsubishi notes that, whereas in the home market it sells to original equipment manufacturers who use Mitsubishi CPTs to manufacture televisions, in the United States it sells televisions to resellers. Therefore, Mitsubishi argues, the technical services incurred in the home market, working with customers to optimize usage of the CPT in television production, are irrelevant to sales in the U.S. market. Furthermore, Mitsubishi claims, there is no record evidence to suggest that there are direct U.S. technical service expenses.

Finally, Mitsubishi claims, notwithstanding the Unions' criticism that the verification inadequately addressed the nature of the technical service expenses, the Department verified the nature of these expenses to the extent the Department deemed necessary, that Mitsubishi has fully cooperated, and that the Unions are in no position to now suggest that additional verification is needed. Mitsubishi argues that the Unions' assertions that the visits seemed to be routine customer visits or that the amount of time spent on these visits was overly long are speculative and are not supported by record evidence.

Department's Position

We agree with Mitsubishi in part. We find that the travel-expenses portion of the reported home market technical service expenses falls within the adjustments warranted under 19 CFR 353.56 (a)(2) for differences in circumstances of sale because the record evidence supports Mitsubishi's claims. To warrant a circumstance-of-sale adjustment, the respondent must demonstrate that the technical service expenses are directly related to the sales subject to review (19 CFR 356.56). We treat technical services as direct expenses when the respondent

demonstrates that services are provided to assist customers with technical problems associated with the purchased product. *See, e.g., Certain Small Business Telephone Systems and Subassemblies Thereof From Taiwan; Final Results of Antidumping Duty Administrative Review*, 57 FR 29283, 29286 (July 1, 1992). As Mitsubishi explained at verification, the technical service visits in the home market are a circumstance of selling to original equipment manufacturers (OEMs) which incorporate Mitsubishi CPTs into color television sets. The documents that we examined at verification indicate that Mitsubishi engineers visited the OEM customers to provide technical assistance related to the installation of Mitsubishi CPTs into the customers' televisions. We find no evidence to suggest that any sales-related activity occurred. In addition, the documents indicate that such visits only occurred after the sale of the CPTs to the OEM customer and were unrelated to future or pending sales. Furthermore, the Unions have not provided any evidence to support their allegation that the engineers' visits may have been for any purpose other than to provide technical assistance. Therefore, we conclude that Mitsubishi has demonstrated that the travel expenses' portion of the reported technical service expenses bears a direct relationship to the sales compared.

We also agree with Mitsubishi that the technical service expenses incurred in the home market are naturally different from those incurred in the United States. Mitsubishi's home market sales are to OEM customers who incorporate Mitsubishi's CPTs into color televisions. We verified that Mitsubishi's claimed technical service expenses are related to technical assistance provided to OEM customers. In the United States, however, Mitsubishi sells televisions to resellers. No technical service such as that provided to OEM customers in Japan would be necessary in selling completed televisions to resellers in the United States. It is, therefore, reasonable to assume that Mitsubishi would not incur the same types of expenses for such different types of sales activity.

Comment 2

The Unions next argue that the Department should recalculate Mitsubishi's home market technical service expenses to exclude the salaries of Mitsubishi's engineers. The Unions note that in Mitsubishi's questionnaire response Mitsubishi stated that its home market technical service expenses consisted of travel expenses related to engineers' visits to customers plus the engineers' wages applicable to the duration of the business trip. Further, the Unions claim, the Department's verification report states that the salary and benefits figure used to calculate technical services expenses was based on salaries paid to Mitsubishi employees, citing *Verification Report for Mitsubishi Electric Corporation (MELCO) for the 1995 Administrative Review of the Antidumping Duty Order on Color Picture Tubes (CPTs) from Japan*, December 27, 1996, at 6 (*Verification Report*). The Unions argue that including the salaries paid to Mitsubishi employees as part of the technical services expenses runs counter to the Department's practice as stated in the Department's antidumping manual.

Mitsubishi rebuts that the service visits and accompanying expenses are circumstances of selling to the large screen customers in the home market and, accordingly, fall within the expenses named in the statute at section 776(a)(6)(C)(iii), ''other differences in circumstances of sale.''

Mitsubishi remarks that the Unions do not challenge the amounts or the allocation bases of these expenses. Thus, Mitsubishi claims, if the Department agrees with the Unions' basic argument the expenses should be reclassified as indirect expenses with no change in the amounts. Mitsubishi states that, because the Department consistently adheres to the principle that selling expenses should be allocated as specifically as possible, the wage costs associated with visits to a particular customer should be assigned to sales to that customer rather than to some broader universe. Therefore, Mitsubishi asserts, any reduction in technical service expenses would be matched by a corresponding increase in indirect selling expenses for the same transactions.

Department's Position

We disagree with the Unions' contention that salaries paid to Mitsubishi's engineers should be excluded from the acceptable technical service expenses. We treat technical services as direct expenses when the respondent demonstrates that services are provided to assist customers with technical problems associated with the purchased product. We require respondents to segregate the variable and fixed portions of these expenses and treat variable costs as direct and fixed costs as indirect. *See Zenith Elec. Corp.* v. *United States*, 77 F.3d 426, 430 (Fed. Cir. 1996) (upholding the Department's practice of analyzing each component of claimed expenses for purposes of determining whether to make a circumstance-of-sale adjustment). We generally consider travel expenses to be directly related to sales because the technicians are visiting customers to assist with specific matters. We generally consider salaries to be fixed costs because they would have been incurred whether or not sales were made. *See, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews , Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders*, 60 FR 10900, 10910 (Feb. 28, 1995). In keeping with our standard practice, we have allowed a circumstance-of-sale adjustment for the travel expenses (*see* our response to Comment 1) and we have determined that the salaries should be treated as indirect expenses.

Comment 3

The Unions argue that the Department should use facts available to calculate inland freight costs for Mitsubishi's home market sales because Mitsubishi's inland freight data contain serious errors that cannot be corrected at this stage of the review. The Unions claim that information obtained at verification indicated that the average freight costs in Mitsubishi's questionnaire response hid obvious errors in the calculation of freight costs. For instance, the Unions claim, data on a worksheet provided at verification show that Mitsubishi failed to allocate inland freight costs to merchandise not subject to review and, accordingly, the average freight costs reported in Mitsubishi's questionnaire response should not be used for the final results.

To support this argument the Unions note variations in the reported freight costs for shipments of the same quantities to the same customers, stating that the only explanation for such variations is that the inland freight costs shown on the shipment-by-shipment worksheet obtained at verification represented the total freight bill for all of the products included in the delivery rather than the freight costs allocated to the CPT models subject to review. Thus, the Unions argue, if Mitsubishi actually allocated the total freight cost to all of the products that were shipped to each customer, the average freight costs in the questionnaire response should be less than the average costs shown by the data on the verification worksheet because the average freight costs in the questionnaire response should be only for the specific models in question. Finally, the Unions question why

Mitsubishi reported average freight costs when it apparently was able to determine and compile the freight costs for each observation in its reported home market sales list.

The Unions also state that the verification report and the verification worksheet indicate that Mitsubishi double-counted inland freight expenses for its home market sales in that, for the specific sale verified, the freight bill from the trucking company was for a round trip but that the amount claimed in Mitsubishi's sales listing was based on a one-way trip, referring to the *Verification Report* at 9. However, the Unions note, the round-trip freight expense amount was the amount shown on the shipment-by-shipment worksheet provided by Mitsubishi at verification. Thus, the Unions claim, Mitsubishi's reported inland freight costs for its home market sales represent the costs of deliveries and returns rather than only delivery costs.

The Unions argue that the verification report and the verification worksheet indicate that Mitsubishi charged the entire freight cost to the merchandise subject to review despite the fact that its shipments included non-subject products, in that the entire freight bill for a given shipment was used to calculate the freight costs reported in the questionnaire response.

Finally, the Unions argue that the customer-by-customer inland freight costs that Mitsubishi reported for its home market sales are inconsistent and unreliable because Mitsubishi's reported inland freight expenses bear no relation to the distances shipped. Therefore, the Unions argue, the Department should use in its calculation of inland freight on home market sales, as facts available, the Japanese inland freight costs that Mitsubishi reported for its U.S. sales. The Unions reason that these costs represent a reasonable proxy because Mitsubishi has no incentive to overstate these costs and because they are costs incurred to ship the same product. Alternatively, if the Department does not use facts available for Mitsubishi's inland freight costs for home market sales, the Unions suggest that the Department use the average, customer-specific freight costs indicated on the documents obtained at verification.

Mitsubishi refutes the Unions' arguments as a laundry list of suppositions that provide no reason for the Department to reverse its preliminary calculations with respect to inland freight expenses. Instead, Mitsubishi claims, the Department verified the correctness of Mitsubishi's reported freight expenses and should use them in the final results.

First, Mitsubishi claims, there is no basis to the Unions' conclusion that large shipment-to-shipment variations in per-unit freight costs are due to the fact that shipments must have included non-subject merchandise that did not attract freight charges. Mitsubishi notes that the Unions' exhibit in the case brief indicates that freight charges vary widely because the number of units carried varies widely. Further, Mitsubishi claims, fixed trip costs, spread over more or fewer units, will yield lesser or greater per-unit freight costs.

Mitsubishi next argues that the Unions assume, incorrectly, that all trucks are full and, if a truck contains only three units of one model, it must be filled out with other models. In fact, Mitsubishi asserts, in both its submissions and at verification, it has demonstrated that when shipments included multiple models on a truck the freight charges were allocated among the models based on their cubic volume.

Mitsubishi rebuts the Unions' argument that Mitsubishi double-counted inland freight costs because the freight bills were for round trips, *i.e.*, Mitsubishi was responsible for the return trip. However, Mitsubishi states, the charge for delivery was the amount on the freight bill and the fact that the amount is to cover the return of the empty trucks to their starting point does not affect the amount of the expense. Mitsubishi notes that the record does not suggest, nor do the Unions allege, that Mitsubishi's customers were sending something back to Mitsubishi that would lead to a broader allocation of the freight expense and, consequently, the Unions' argument of double-counting is unsupported and should be rejected.

Mitsubishi rebuts the Unions' allegation that the verification report shows that freight was not allocated to non-subject merchandise. Mitsubishi comments that the Unions quoted a passage from the verification report which first demonstrates that Mitsubishi allocated freight expenses reasonably over all relevant products and, second, discusses a particular shipment examined by the Department precisely because it had high unit freight costs and that the Department verified that this shipment included only the three units in question. Mitsubishi argues that this does not support the Unions' allegation that freight expenses were overallocated to certain models but, rather, supports the freight charge on the specific shipment in question.

With respect to the Unions' argument that the reported freight costs bear no relation to the distances shipped, Mitsubishi states that, as before, this argument ignores that fact that freight expenses are driven in large part by the number of units shipped. Mitsubishi asserts that, without correcting for the portion of the truckload occupied by a particular group of sets, the Unions' freight calculation is meaningless. Mitsubishi adds that, even with such a correction it would be necessary to determine the actual freight charged, not just ratios based on distance, because distance does not take into account the fixed trip charges, traffic conditions, *etc.*, and that the Department properly verified the actual freight charged.

Finally, Mitsubishi states that the Unions' suggestion that the Department apply, as facts available, the freight charges incurred in Japan on sales to the United States is senseless. Mitsubishi notes that the Unions would prefer these data be used because the large volumes of U.S. sales lead to multiple fully loaded trucks and, thus, lower per-unit costs. However, Mitsubishi argues, this is not relevant to the home market freight expenses it incurred.

Department's Position

We agree with Mitsubishi that the Unions' arguments with respect to Mitsubishi's inland freight costs are based on speculation and are not supported by record evidence. We verified Mitsubishi's reported home market inland freight costs (*Verification Report* at 9) and find that these data are reliable for use in the final results.

The purpose of verification is to test the accuracy and completeness of information provided by a party. Using standard verification procedures we conducted a selective examination of the reported information rather than a test of the entire universe of information. *See Bomont Indus.* v. *United States*, 733 F. Supp. 1507, 1508 (CIT 1990) (upholding our verification procedures). We chose to examine documentation related to shipments for which Mitsubishi reported the highest per-unit freight costs. We found the information submitted by Mitsubishi to be accurate and complete. The alleged discrepancies identified by the Unions appear to result from a misinterpretation of our findings at verification.

For example, we examined Mitsubishi's allocation methodology at verification and found that for shipments that included multiple products Mitsubishi allocated the freight costs to the foreign like product by volume. *Verification Report* at 9. Using this methodology Mitsubishi was able to calculate an average freight cost per customer and report only the freight

expenses allocable to the foreign like product.

We also found no evidence that Mitsubishi double-counted its inland freight expenses.

For example, with respect to the sale for which Mitsubishi claimed the highest inland freight expenses, documentation gathered at verification indicated that the shipment consisted only of the three units in question. Although we noted that Mitsubishi was charged for a round trip we found no evidence to indicate that the customer returned anything to Mitsubishi. Instead, we determined that Mitsubishi, in hiring the truck to deliver the CPTs to the customer, was responsible for a fixed expense related to the round trip. We verified the reported expense as the amount paid by Mitsubishi to the shipping company for the shipment in question. *Id.* We also found no evidence that distance was a factor in Mitsubishi's freight expenses. Our examination demonstrated that Mitsubishi reported its actual freight costs for the shipment in question. The quantities shipped from the warehouse to the home market customer vary from sale to sale. As was evident from Mitsubishi's response and from information gathered at verification, the freight expenses vary accordingly, and we found no reason to question the validity of Mitsubishi's data.

Finally, we reject the Unions' suggestion that we apply, as facts available, Mitsubishi's domestic inland freight applicable to its U.S. sales of subject merchandise. Because we found Mitsubishi's reported data were reliable the use of facts available is unnecessary.

Comment 4

The Unions and Mitsubishi argue that Mitsubishi's home market warranty expenses should be revised to reflect information obtained at verification. The Unions and Mitsubishi note that during verification the Department reviewed the warranty expenses for home market sales to a particular customer and asked that Mitsubishi recalculate the warranty expenses on a per-model basis for sales to this customer.

The Unions claim that documents obtained at verification by the Department indicate that Mitsubishi overstated the number of returns of the model in question and that, when recalculating the warranty expenses, the Department should use the correct number of returned units.

In addition to revision of the warranty expenses Mitsubishi asserts that revised data relating to discounts and rebates, presented as corrections at the beginning of verification, should be incorporated into the final results.

Department's Position

We agree with the Unions and with Mitsubishi that we neglected to incorporate certain changes into our preliminary margin calculation. At the beginning of verification Mitsubishi provided certain corrections related to reported discounts and rebates and during verification we requested additional information from Mitsubishi with respect to its reported warranty expenses. For the final results we have made the changes to our calculations to reflect the correction of warranty expenses as described in the verification report. We have not changed the calculations with respect to rebates because the information provided by Mitsubishi is insufficient for these purposes.

We have reexamined the documents obtained at verification with respect to the Unions' argument that Mitsubishi overstated the number of returns. Although we agree that Mitsubishi presented evidence of returned units of a different model than the model we verified, other documents presented by Mitsubishi at verification indicate that this was an inadvertent mistake and that the number of returns we verified from Mitsubishi's worksheet was accurate.

Comment 5

The Unions assert that the Department must investigate whether Mitsubishi made sales in the home market at prices below the cost of production. The Unions claim that, based on language in the original questionnaire, they believed that the Department intended to conduct a full cost-of-production investigation to determine whether Mitsubishi was selling below cost in the home market and, as a result, they did not believe it was necessary to submit a separate request that the Department do so. Because the Department failed to consider in its preliminary results whether Mitsubishi sold any comparison models below cost, the Unions argue, the Department must conduct a complete below-cost-sales investigation for purposes of its final results.

The Unions argue further that the cost investigation may be critically important in this case depending on the Department's treatment of Mitsubishi's home market inland freight expenses. The Unions claim that even though Mitsubishi had available its actual freight costs on a sale-by-sale basis it improperly averaged home market freight costs over all sales of the particular size CPTs by customer. The Unions assert that the averaging of these freight costs not only tends to mask dumping margins for individual comparisons but also masks individual sales that were sold below Mitsubishi's cost of production. The Unions argue that it is important that the freight costs be calculated accurately such that they represent a reasonable cost for transporting the CPT from the warehouse to the customer and, once that is done, the Department must then compare the selling expense to the cost of production to determine whether individual sales were made below cost.

Mitsubishi argues that the Unions' request at this stage of the review that the Department conduct a cost investigation is contrary to the Department's regulations and to its practice. Mitsubishi states that, in accordance with section 353.31(c) of the Department's regulations, the Department will not consider allegations of below cost sales submitted more than 120 days after publication of the notice of initiation. Mitsubishi notes that this deadline has been upheld by the Department on numerous occasions in denying petitioners' requests for below-cost sales investigations, citing, *e.g., Certain Forged Steel Crankshafts from the United Kingdom* (*Crankshafts*), 60 FR 52150, 52153 (October 5, 1995), and *Sulfur Dyes, Including Sulfur Vat Dyes, from the United Kingdom (Sulfur Dyes*), 58 FR 3253, 3255 (January 8, 1993), in which the Department denied a similar request for such investigation based on an allegation first made in the petitioner's case brief. Mitsubishi states that, as in this case, absent a timely allegation of below-cost sales or a prior below-cost finding the Department cannot simply disregard below-cost sales.

Additionally, Mitsubishi states, section 351.301(c)(2)(ii) of the Department's proposed regulations (referring to 61 FR 7325 (February 27, 1996)) requires that allegations of below-cost sales be made within 20 days after the respondent submits the relevant section of the questionnaire and that the Section B home market sales submission is the ''relevant section'' for these purposes. Mitsubishi argues that regardless of whether the Department uses deadlines set forth by section 353.31(c) or by section 351.302 of the proposed regulations the Unions' allegation of below-cost sales is grossly untimely.

Mitsubishi notes that the Department's cover letter attached to the questionnaire dated March 11, 1996 instructed Mitsubishi to respond to the cost-of-production portion of the

questionnaire only if the Department disregarded below-cost sales in the most recently completed review or investigation of Mitsubishi, but that in the event of a timely allegation from a domestic party that sales in the comparison market were made at prices below the cost of production, the Department may request at a later date that Mitsubishi complete the cost-of-production portion of the questionnaire. Mitsubishi states that the Department did not exclude below-cost sales from Mitsubishi's home market database in the original investigation and that there has been no prior administrative review of Mitsubishi in this case. Accordingly, Mitsubishi states, the cover letter not only confirmed that Mitsubishi was not required to respond to the cost-of-production portion of the questionnaire but also instructed the Unions on what they needed to do if they wanted the Department to initiate a cost investigation. Mitsubishi argues that, instead of giving the impression that the Department intended to initiate a cost investigation, the cover letter provided the Unions with clear notice that it was incumbent upon the Unions to come forward with sufficient allegations of below-cost sales if the Unions intended to raise the issue. In addition, Mitsubishi claims that the Unions' argument that a cost investigation is necessary because of variances in home market inland freight expenses does not negate the Unions' duty to make a timely allegation of below-cost sales and, as a result, the Department should reject the Unions' argument.

Department's Position

We agree with Mitsubishi. Section 773(b) of the Act directs us to initiate a cost inquiry only when there are ''reasonable grounds to believe or suspect'' that sales have been made below cost. The Statement of Administrative Action Accompanying the URAA, *reprinted in* H.R. Doc. No. 103–316, vol. 1, at 833 (1994) (''SAA''), notes that this provision codifies our existing practice that in administrative reviews, ''reasonable grounds'' exist when an interested party submits a sufficient allegation of below-cost sales or when we have disregarded below-cost sales of the particular producer or exporter in the most recently completed segment of the proceeding. Because we did not exclude any below-cost sales in the less-than-fair-value investigation (*i.e.*, the most recently completed segment in which we examined Mitsubishi's sales), an allegation by the Unions is the only appropriate basis to initiate a cost inquiry in this review. However, in accordance with our existing regulations, an allegation of below-cost sales must be submitted no later than 120 days after the publication of the notice of initiation of the review, unless a relevant response is considered untimely or incomplete. Section 353.31(c)(1)(ii) of Interim Regulations, 60 FR at 25135. If the allegation is received later than 120 days after initiation the Department may exercise its discretion in determining a reasonable amount of time for the domestic interested party to submit its cost allegation. *See Crankshafts* at 52153.

In this instance, the Unions did not make an allegation of below-cost sales until they filed their case brief, 390 days after publication of the initiation notice. However, the Unions had access to Mitsubishi's relevant home market sales data as early as May 10, 1996, when Mitsubishi filed its response to section B. We find that the Unions had sufficient time to provide a timely cost allegation. In past cases, we have rejected cost allegations submitted in case briefs. *See Crankshafts* at 52153; *Sulfur Dyes* at 3255–56. Moreover, the SAA expresses an intent that we initiate cost inquiries at the outset of a proceeding in order to enhance our ability to complete reviews ''in a timely, transparent, and effective manner.'' SAA at 833. The CIT stated in *Floral Trade Council* v. *United States*, 704 F. Supp. 233, 236 (CIT 1988), that ''it is not reasonable to expect [the Department] in every case to pursue all investigative avenues, even such important areas as less-than-cost-of-production sales, without some direction by petitioners * * * cost of production need not be investigated in every case, but only where reasonable grounds are present. Part of whether [the Department] has ''reasonable grounds to believe or suspect'' that a less than cost-of production analysis is needed is whether it has been requested.'' In light of these considerations, we have not conducted a cost-of-production analysis for these final results.

We note that the Unions' assertion that they relied upon the fact that we sent Section D of the questionnaire to Mitsubishi as an expression of our intent to initiate a cost inquiry is untenable. The questionnaire is sent in its entirety to respondents in any review. The cover letter accompanying the questionnaire clearly stated that, unless we had disregarded any of Mitsubishi's below-cost sales in the most recently completed segment, we would require Mitsubishi to provide cost-of-production information only if the Department received a timely cost allegation. Accordingly, we find no ''reasonable grounds'' to warrant a below-cost inquiry of Mitsubishi's sales in this review.

Comment 6

The Unions argue that, pursuant to section 772(d)(1) of the Act, the Department must deduct all direct and indirect selling expenses incurred by the foreign producer, exporter or the U.S. affiliate in selling to the United States. The Unions argue that this section reflects the statutory requirements as they existed prior to the URAA (referring to section 772), claiming that the Department interpreted this provision to require the deduction of all selling expenses incurred in selling to the United States, including all indirect selling expenses incurred by the foreign producer or exporter in its home country that related to U.S. sales. The Unions claim that such interpretation was upheld in *Silver Reed America, Inc.* v. *United States,* 12 CIT 250, 683 F. Supp. 1393, 1397 (1988).

The Unions argue that, while the two statutory provisions—pre-URAA and the URAA—contain the same requirements regarding deductions, the Department failed in its preliminary results to deduct indirect selling expenses and inventory carrying expenses from the time of final production in the country of manufacture to the time of arrival in the United States that Mitsubishi identified in its questionnaire response as being incurred in selling to the United States. The Unions claim that the failure to deduct these expenses is inconsistent with the statute.

With regard to Mitsubishi's inventory carrying costs, the Unions argue that, even if the Department determines that it can only deduct from CEP those selling expenses related to commercial activity in the United States, the Department must, at a minimum, deduct the inventory carrying costs that the foreign producer/exporter incurred following exportation of the merchandise from Japan. The Unions note that the Department stated in the preliminary results that it had deducted various selling expenses related to economic activity in the United States, among them inventory carrying costs, but that a review of preliminary margin calculation indicates that the Department not only failed to deduct inventory carrying costs incurred prior to exportation but also failed to deduct inventory carrying costs incurred for the time the merchandise was in transit from Japan to the United States. The Unions assert that inventory carrying costs incurred while the merchandise is

in transit to the United States are akin to other costs that the Department has recognized must be deducted when calculating CEP because such costs clearly relate to the product sold in the United States. Furthermore, the Unions argue (referring to *Silver Reed* at 1397), the CIT has recognized that this expense must be deducted in the calculation of CEP.

The Unions acknowledge that the Department may have attempted to distinguish the new statutory calculation of CEP from the prior calculation of exporter's sale price by limiting the deductions to those attributable exclusively to U.S. sales. However, in interpreting the new statute, the Unions claim, the Department has determined that inventory carrying costs that are shown to relate exclusively to U.S. sales are deductible, even when incurred in the exporter's home market (citing *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy* (*Pasta*), 61 FR 30326, 30352 (June 14, 1996)). The Unions claim that the distinction the Department drew in *Pasta* was that, given evidence that the expense at issue was related to a U.S. sale and not to any other sale, inventory carrying costs incurred in shipping the merchandise following exportation should be deducted because such expenses related to U.S. sales. Similarly, the Unions argue, where the CPT is loaded in Japan onto a ship destined exclusively for the United States all costs incurred following exportation relate only to the U.S. sales and, accordingly, even if the Department declines to deduct other indirect selling expenses incurred in Japan in selling to the United States the Department should deduct from CEP inventory carrying costs incurred after exportation because such costs are exclusively attributable to U.S. commercial activity.

Finally, the Unions argue that the Department should be consistent in its treatment of indirect selling expenses incurred in Japan, whether in the calculation of CEP or in the calculation of CEP profit. The Unions insist that if, as discussed above, the Department decides to ignore indirect selling expenses incurred by Mitsubishi in Japan for its U.S. sales in the calculation of CEP, the Department must likewise disregard the same expenses in calculating the total U.S. selling expenses for the purpose of calculating the CEP-profit ratio. The Unions claim that, although the Department failed in the preliminary results to deduct from CEP the indirect selling expenses incurred by Mitsubishi in Japan for its U.S. sales, the Department included these same expenses in the calculation of Mitsubishi's total selling expenses for the determination of the CEP-profit ratio. Such uneven treatment, the Unions argue, not only violates the antidumping law but is unreasonable and unfair. The Unions claim that on one hand the Department determined that, for purposes of calculating CEP, these expenses were not related to U.S. economic activity even though Mitsubishi identified these expenses as being incurred on behalf of the U.S. sales and even though the same types of expenses were deducted from normal value, whereas on the other hand, for purposes of calculating the CEP-profit ratio, the Department accepted these expenses as being related to U.S. sales. The Unions argue that nothing in the statute allows the Department to distinguish between the treatment of these selling expenses for purposes of calculating CEP and the CEP-profit ratio and, accordingly, for the final results the Department should either deduct all indirect selling expenses for the U.S. sales from CEP or, alternatively, the Department should exclude the same expenses from the calculation of total selling expenses for U.S. sales, thereby excluding these expenses from the calculation of the CEP-profit ratio.

Mitsubishi claims that the Unions' argument would have the Department abandon its existing practice and deduct certain expenses from the CEP even though the expenses do not relate to economic activities in the United States. Mitsubishi notes that the expenses in question are indirect selling expenses and inventory carrying costs incurred prior to importation and that the Department has consistently not deducted such expenses in its practice under the URAA, citing *Dynamic Random Access Memory Semiconductors of One Megabit or Above from the Republic of Korea: Final Results of Antidumping Duty Administrative Review,* 62 FR 965 (January 7, 1997), in which the Department stated ''we have not deducted indirect selling expenses and inventory carrying costs incurred in Korea from U.S. price because these expenses do not result from or bear relationship to selling activities in the United States.''

Mitsubishi argues that the reasoning in that case applies directly to this case and that the Department is treating the expenses in question in the same manner in both cases. Mitsubishi also states that, because the Unions recognize that the Department calculates CEP by limiting the deductions to those related to U.S. economic activity, the Unions then argued that one piece of pre-importation inventory carrying costs should be deducted, *i.e.,* that portion attributable to the time in transit. Mitsubishi claims that it submitted its imputed inventory carrying costs in its original questionnaire response and that the transit period represents one part of the inventory carrying costs that cannot be distinguished on the record from the inventory period in Japan. Therefore, Mitsubishi argues, this expense cannot be attributed exclusively to U.S. sales and is not an appropriate adjustment. In addition, Mitsubishi states, the Unions are extremely untimely in their request that a portion of the expense be identified and attributed to U.S. sales. Furthermore, Mitsubishi argues, the adjustment is very small and is well within the parameters for ignoring minor adjustments. For the foregoing reasons Mitsubishi claims that, even if the Department agreed with the substance of the Unions' argument the Department should reject it.

Department's Position

We disagree with the Unions' argument that section 772(d)(1) of the Act requires us to deduct the same direct and indirect selling expenses as were deducted under the pre-URAA statute. Section 772(d)(1) of the Act instructs us to deduct from the starting price the amount of the expenses generally incurred by or for the account of the producer or exporter, or the affiliated seller in the United States, in selling the subject merchandise. It is clear from the SAA that under the new statute we should deduct from CEP only those expenses associated with commercial activity in the United States. The SAA also indicates that the CEP ''is now calculated to be, as closely as possible, a price corresponding to a price between non-affiliated exporters and producers.'' SAA at 823. Section 351.402(b) of the proposed regulations codifies this principle, stating that we will make adjustments under section 772(d) for expenses associated with commercial activity in the United States, no matter where it is incurred. Therefore, consistent with section 772(d) and the SAA, we deduct only those expenses representing activities undertaken to make the sale to the unaffiliated customer in the United States. We ordinarily do not deduct indirect expenses incurred in selling to the affiliated U.S. importer. *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative*

Reviews and Termination in Part, 62 FR 11825, 11834 (March 13, 1997); *Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 17148, 17168 (April 9, 1997) (*Mexican Cement*).

Our analysis of Mitsubishi's indirect selling expenses incurred in Japan indicates that these costs, including items such as salaries, office expenses and equipment expenses, relate to activities performed in selling to the affiliated U.S. importer. While we recognize that in *Pasta* we reevaluated our treatment of indirect selling expenses incurred in Italy for the final determination, the circumstances differed from this case. In *Pasta*, based on information obtained at verification which indicated that enriched pasta, other than whole wheat pasta, is virtually all sold in the United States, we determined that any inventory carrying costs incurred on enriched pasta were necessarily attributable to U.S. economic activity. But in this case, Mitsubishi's indirect selling expenses cannot be attributed exclusively to its U.S. sales to unaffiliated customers. Unlike *Pasta*, we found no models that Mitsubishi produces for sale exclusively in the United States and, therefore, Mitsubishi incurs these costs regardless of the final destination of the sale.

Moreover, we do not consider the portion of Mitsubishi's inventory carrying costs during the period of transit to be associated with commercial activity in the United States. These expenses were incurred from the date of exportation to the date the affiliated importer received the subject merchandise in the United States and, therefore, relate to the sale to Mitsubishi's U.S. affiliate and not to the sale to the unaffiliated customer. *See Certain Stainless Steel Wire Rods From France: Amended Final Results of Antidumping Duty Administrative Review* (*Steel Wire Rods*) 62 FR 25915, 25916 (May 12, 1997). Accordingly, for these final results we have not deducted such costs from the CEP.

Although we agree with the Unions' argument that these expenses should be excluded from the numerator of the CEP-profit ratio (*i.e.*, the calculation of total U.S. expenses), we have included these expenses in the denominator as total expenses in accordance with section 772(f)(2)(C). In deducting profit from CEP the statute directs us to allocate profit to CEP sales based upon the ratio of total U.S. expenses to total expenses. *See* sections 772(f)(1) and (2). Consistent with section 772(f)(2)(B) and the SAA, we include only expenses deducted under sections 772(d)(1) and (2) in the calculation of total U.S. expenses. *See* SAA at 824; *Mexican Cement*, 62 FR at 17167. However, section 772(f)(2)(C) defines total expenses as all expenses incurred by or on behalf of the foreign producer/exporter and the affiliated U.S. seller with respect to the production and sale of subject merchandise and the foreign like product. This calculation requires the inclusion of all expenses even if not associated with commercial activity in the United States. Accordingly, we have included Mitsubishi's indirect selling expenses and inventory carrying costs incurred in Japan in the calculation of total expenses.

Comment 7

The Unions argue that the Department should exclude from the calculation of profit for constructed value (CV) Mitsubishi's home market sales that were made below the cost of production. The Unions note that the Department based normal value on CV for comparison with U.S. sales for which there were no home market comparison models and that, when calculating CV, the Department added an amount for CV profit to the model-specific cost of production provided by Mitsubishi. The Unions argue that, pursuant to section 773(e), CV must include an amount for profits earned in the ordinary course of trade in the production and sale of the foreign like product. The Unions add that in accordance with section 771(15) the Department must consider as outside the ordinary course of trade sales disregarded under section 773(b)(1) due to below-cost prices and under section 773(f)(2) due to non-arm's-length prices. Furthermore, the Unions claim, the Department has consistently implemented this statutory requirement (citing, *e.g., Notice of Final Results of Antidumping Duty Administrative Review: Mechanical Transfer Presses from Japan (Mechanical Transfer Presses*), 62 FR 11820, 11822 (March 13, 1997)). The Unions assert that in that case, as here, the particular market situation did not permit proper price-to-price comparisons between home market sales and all of the respondent's U.S. sales and that the Department had to rely on CV to compare to certain U.S. sales. The Unions claim that, when analyzing the cost and sales data for home market sales of the foreign like product in the *Mechanical Transfer Presses* case, the Department had reason to believe that such sales were made at prices below the cost of production and that the Department excluded below-cost sales from the CV calculation on that basis even though technically the Department did not disregard those sales in the price-based determination of normal value.

In the instant review, the Unions point out, Mitsubishi provided model-specific cost-of-production data in its Section D questionnaire response that allows the Department to determine whether there were sales made in the home market at prices below the cost of production during the POR within an extended period and in substantial quantities. The Unions argue that, although they believe the Department should undertake a full cost-of-production investigation (*see* Comment 5), at a minimum the Department should ensure for the final results that below-cost sales are excluded from its calculation of profit for CV.

Mitsubishi claims that the Unions' argument with respect to the calculation of profit for CV is fundamentally the same argument requesting that the Department undertake an investigation of below-cost sales. Mitsubishi states that the facts on the record have been there for months and that the deadlines for making such allegations are long past. Mitsubishi adds that it is completely inappropriate to request at this point in the review that the Department undertake analyses of new issues that should have been raised much earlier.

Mitsubishi argues that the Department's policy is to include in the calculation of CV profit all sales of the like product unless there has been a finding that such sales were not in the ordinary course of trade. Mitsubishi states that the Department has expressly considered and rejected the position that all below-cost sales are outside the ordinary course of trade. Mitsubishi notes that in comments accompanying the proposed regulations the Department stated that sales must have been disregarded under the cost test before they will be excluded from the calculation of profit (referring to 61 FR 7335 (February 27, 1996)). Mitsubishi points out that the reference to a ''cost test'' is to the investigation conducted under section 773(b) of the Act pursuant to an allegation of below-cost sales. Mitsubishi adds that the test considers not only whether the sales were made below the cost of production but whether the sales were made in substantial quantities over a substantial period of time at prices that do not permit the recovery of all costs within a reasonable period of time (referring to section 773(b)). Mitsubishi adds that, as discussed in response to an earlier comment, the Department has specific regulations regarding the procedures for determining such issues and that the

Unions' arguments come far too late in the review.

Mitsubishi also argues that *Mechanical Transfer Presses* is readily distinguishable from this case because the Department determined to go directly to CV because mechanical transfer presses are large, custom-built capital equipment and, while the home market was viable, the fact that subject merchandise was built to each customer's specifications did not permit proper price-to-price comparison in either the home market or third countries. As a result, Mitsubishi notes, the Department did not require that the respondent provide home market sales data. Consequently, Mitsubishi claims, the Department had determined that allegations of below-cost sales—for the purpose of eliminating below-cost sales from price-to-price comparisons—were not necessary. In the present case, Mitsubishi notes, home market sales data were not only requested but were extensively used in price-to-price comparisons. Mitsubishi asserts that the statutory structure is clear in that the Department should have been requested, on a timely basis, to conduct a below-cost sales investigation as a prerequisite to the Unions' arguments.

Department's Position

Section 773(e)(2)(A) directs us to calculate CV profit using home market sales of the foreign like product in the ordinary course of trade. Consistent with the definition of ''ordinary course of trade'' contained in section 771(13) and the SAA, we have interpreted this requirement to preclude an automatic exclusion of below-cost sales from the CV profit calculation. Proposed Regulations, 61 FR at 7335. Instead, our normal practice is to exclude below-cost sales only when such sales have been disregarded under our cost test pursuant to section 773(b)(1). *See Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 61 FR 56515, 56518 (November 1, 1996). As discussed above, we have not conducted a cost test in this administrative review of Mitsubishi's home market sales. Accordingly, we have not disregarded any below-cost sales as being outside the ordinary course of trade and, therefore, have not excluded any sales from our calculation of CV profit.

The Unions' cite to *Mechanical Transfer Presses* is misplaced because in that case we excluded below-cost sales because of unique factual circumstances not present in this review. In that case, because the particular market situation rendered a price-to-price comparison inappropriate, the need for an examination of whether home market sales were below cost was not apparent. Thus, when the relevance of the issue became apparent, we analyzed the cost data and determined that the respondent did have below-cost sales that would have been disregarded under section 773(b)(1). *Mechanical Transfer Presses*, 62 FR at 11822. We determined that it was, therefore, appropriate to exclude such sales from the calculation of CV profit.

Comment 8

The Unions argue that for comparison to U.S. sales for which Mitsubishi failed to supply complete data the Department should use, as facts available, the highest cost-of-production data and that the preliminary decision to use the weighted-average dumping margin calculated for all other sales was inappropriate and inconsistent with the Department's past practice. The Unions state that in a case in which the respondent failed to submit the cost of further manufacturing for certain sales the Department used, as facts available, the highest reported cost of further manufacturing, citing *Granular Polytetrafluoroethylene Resin from Italy; Final Results of Antidumping Duty Administrative Review* (*PTFE Resin*), 62 FR 5590 (February 6, 1997). In this case, too, the Unions argue, while it would be inappropriate to resort to total facts available, Mitsubishi should not be rewarded for its failure to provide requested data—data which might reveal higher dumping margins for certain sales than the weighted-average dumping margins for other sales. The Unions state that if the Department were to use the weighted-average margin to fill in data that a respondent failed to supply respondents would be encouraged to withhold particular data that would lead to higher margins. Accordingly, the Unions argue, the Department should use, as facts available, the highest CV reported by Mitsubishi for the same model size to calculate margins for these sales.

With respect to the question of facts available, Mitsubishi states that the Department has broad discretion in selecting a facts-available margin for sales having less than complete data. In this review, Mitsubishi argues that a very small number of U.S. sales were made of models for which cost-of-manufacturing data was not available and, given the small number of sales at issue and the similarity of these models to other models for which data was supplied, the Department's decision to apply the weighted-average margin calculated for other U.S. sales was correct.

Mitsubishi disputes the Unions' assertion that Mitsubishi is benefitting by the application of the weighted-average margin for these sales. Mitsubishi argues that there is no benefit or preferential treatment accorded these sales but, rather, an appropriate decision not to apply a punitive rate to these sales in view of the overall reasonableness and reliability of Mitsubishi's response. Mitsubishi states that one of the significant revisions under the new law is the shift from the use of best information available to the use of facts available pursuant to section 776(b).

Department's Position

We disagree with the Unions' argument regarding our use of adverse facts available (*i.e.*, apply the highest calculated CV for the same-size-screen models) for Mitsubishi's U.S. sales of models for which we had no CV data. Given the level of cooperation by Mitsubishi, including timely submission of its initial and supplemental questionnaire responses as well as its participation in a verification of its data, the absence of CV data for these sales does not warrant the use of adverse facts available pursuant to section 776(b). On the contrary, for more than 93 percent of its U.S. sales of subject merchandise during the POR Mitsubishi provided information such that we are able to calculate an accurate margin. For the relatively few sales for which we had no CV data we exercised our discretion under section 776(a) to determine how to apply facts available to account for the missing data. Accordingly, for these final results we have continued to apply as facts available to such sales the weighted-average margin which we calculated for Mitsubishi's other sales.

Comment 9

The Unions argue that the Department should determine that Mitsubishi has absorbed antidumping duties in this review. The Unions claim that the Department's proposed regulations provide that for transition orders the Department will make a duty-absorption determination, if requested, for any review initiated in 1996 (referring to 61 FR 7308, 7366 (February 27, 1996) and also citing *Certain Welded Stainless Steel Pipe from Taiwan; Preliminary Results of Administrative Review* (*Stainless Steel Pipe*), 62 FR 1435, 1436 (January 10, 1997)).

The Unions acknowledge that this is the first time that they have raised the issue of duty absorption in this review. However, the Unions assert, the Department's analysis of this issue is unaffected by the timing of the Unions'

request for a duty-absorption determination. The Unions claim that in the review of *Stainless Steel Pipe* the Department did not obtain any additional information from the respondent in deciding whether absorption occurred. Instead, the Unions claim that the Department determined, based on information obtained during the regular course of the review, that duty absorption occurred within the meaning of the statute. The Unions argue that in this case, too, the Department can make a decision on duty absorption based on information already available to it.

Mitsubishi points out that the notice of initiation, published on February 20, 1996, stated that, if requested within 30 days of publication, the Department would determine whether antidumping duties had been absorbed by an exporter or producer subject to the review if the merchandise was sold in the United States through an affiliated importer (61 FR 6348). Mitsubishi states that, according to the notice, the Unions had the opportunity to request a determination on this issue not later than March 22, 1996. Instead, Mitsubishi argues, the request submitted for the first time on March 17, 1997, was 360 days late. In addition, Mitsubishi argues that section 351.213(j) of the proposed regulations are clear regarding the manner in which the Department should decide this issue: ''* * * the Department will make a determination regarding duty absorption only if the request for such a determination is made within 30 days after the initiation of the administrative review'' (61 FR 7317 (February 27, 1996)). Mitsubishi notes that the Unions make no attempt to explain the lateness of their request but, instead, argue that the record is complete and that the Department would not have sought or gathered any additional information if the request had been filed earlier. Finally, Mitsubishi argues that the Unions ignore Mitsubishi's rights to be advised that such a review has been requested and to put such information on the record as it deems useful and that if the Department accepts the Unions' request, Mitsubishi's rights will be entirely abrogated by the Unions' procedural tactic. Considering the 30-day deadline as stated in the proposed regulations and in the accompanying comments, as well as in the notice of initiation, Mitsubishi argues that there is no merit to the Unions' request and that such a request should be denied.

Department's Position

We agree with Mitsubishi that a duty-absorption inquiry is not appropriate in this review. Section 351.213(j) of our proposed regulations states that ''the Secretary, if requested within 30 days of the initiation of the review, will determine whether antidumping duties have been absorbed * * *.'' Our notice of initiation of this review reflected this procedural requirement, stating that we would make such a determination if a request was received within 30 days of publication. *Initiation of Antidumping and Countervailing Duty Reviews,* 61 FR 6347, 6348 (February 20, 1996). Thus, the Unions had clear notice of the established 30-day deadline for submitting a duty-absorption request. Because our absorption inquiry is fact-intensive and conducted on a case-by-case basis, the *Stainless Steel Pipe* case is irrelevant in considering whether to conduct such a determination in this review.

Comment 10

The Unions claim that the Department erroneously treated Mitsubishi's further-manufacturing costs as though they were incurred in Japanese yen rather than in U.S. dollars and, therefore, applied exchange rates incorrectly in its preliminary calculations. The Unions note that the further-manufacturing costs, including costs of materials, labor and overhead, as well as other applicable expenses, were incurred by Mitsubishi to incorporate CPTs into color televisions that were assembled in the United States. Because those costs were incurred in the United States, the Unions point out, they were already denominated in dollars and, thus, no currency conversion was required.

Department's Position

Although Mitsubishi had originally indicated that its further-manufacturing data were denominated in Japanese yen, upon further review of Mitsubishi's section E response we agree with the Unions that Mitsubishi reported its further-manufacturing expenses incurred in the United States in dollars. Therefore, for the final results we have treated them accordingly.

Comment 11

The Unions argue that, when calculating CEP expenses, the Department should include repacking expenses incurred by Mitsubishi in the United States. The Unions note that in the preliminary results the Department deducted from the CEP starting price repacking expenses incurred by Mitsubishi for its U.S. sales but that the Department failed to include repacking expenses in the calculation of total expenses incurred by Mitsubishi in the United States for sales of subject merchandise, thereby understating the sum of the expenses that were subsequently used for the calculation of CEP profit.

The Unions claim that, pursuant to section 772(d)(3) of the Act, the Department is required to deduct the profit allocated to the expenses generally incurred by or for the account of the producer or exporter, or the affiliated reseller in the United States, in selling the subject merchandise, as well as the cost of any further manufacturing or assembly. The Unions assert that repacking expenses incurred by Mitsubishi in the United States for the sale of merchandise to which value had been added fall into the domain of the expenses described by section 772(d)(3) for purposes of the CEP-profit calculation. Further, the Unions argue, inclusion of the repacking expenses in the total expenses incurred by Mitsubishi in the United States for purposes of the CEP-profit calculation is consistent with the Department's practice, citing *Certain Stainless Steel Wire Rod from France: Amended Final Results of Antidumping Duty Administrative Review,* 61 FR 58523, 58524 (November 15, 1996), and, accordingly, should be included for the final results in the calculation of total expenses incurred by Mitsubishi in the United States.

Mitsubishi dismisses the Unions' argument as incorrect. Mitsubishi claims that section 772(d)(3) explicitly limits the deductions that attract a profit to a well-defined group: selling expenses and further-manufacturing costs. Mitsubishi argues that repacking expenses are neither. In fact, Mitsubishi argues, there does not appear to be a statutory basis to deduct repacking expenses from U.S. price at all. Mitsubishi agrees that packing of subject merchandise is a recognized adjustment, made to normal value, but repacking of further-manufactured non-subject merchandise is not an adjustment recognized under the statute. Therefore, Mitsubishi argues, rather than assigning profit to repacking, the Department should not adjust for this expense at all.

Department's Position

We agree with the Unions. Repacking in the United States is an expense associated with the further manufacture and assembly of the merchandise and, as such, is among the expenses deducted from the starting price under section 772(d)(2) and for purposes of the allocation of profit under 772(d)(3). *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et. al.; Final Results of Antidumping Duty*

Administrative Reviews, 57 FR 28360, 28396 (June 24, 1994). As discussed in response to Comment 6 above, all expenses deducted under section 772(d)(1) and (2) are included in the numerator for total U.S. expenses in the calculation of the CEP-profit ratio. Accordingly, for the final results, we have continued to deduct these expenses from the starting price pursuant to section 772(d)(2) and included such repacking expenses in our calculation of CEP profit.

Comment 12

The Unions assert that the Department should ensure that the full amount of dumping duties is assessed and collected. The Unions state that when the Department issues its final results it will be able to determine the total amount of dumping duties payable for all sales made during the POR and that the Department should instruct the Customs Service to assess and collect on Mitsubishi's entries during the POR the absolute amount of duties payable plus interest.

Mitsubishi agrees that the Department should collect the duties payable in this review. However, Mitsubishi argues, the assessment methodology indicated in the preliminary results would, if used, result in a large overcollection of duties. Mitsubishi states that, while it understands that the Department calculated the percentage duty because the assessment instructions that may be issued may instruct Customs to apply the percentage duty to all entries made during the POR, Mitsubishi requests the Department to reconsider this approach because it would cause Customs to collect an amount that far exceeds the amount of dumping duties determined on the POR sales. Specifically, Mitsubishi states, the Department calculated the percentage duty based on the entered value for all sales of subject merchandise during the POR but, Mitsubishi argues, the Department should have based its calculation on Mitsubishi's Section A response of the entered value of entries during the POR. Mitsubishi claims that not all CPTs entered during the POR were sold during the POR and if the percent duty is applied to CPTs actually entered during the POR, a substantial overcollection of dumping duties will result. Mitsubishi adds that overcollection would result regardless of the margin calculated for the final results because of the significant difference in the total entered value of CPTs sold during the POR compared with the total value of all entries of CPTs during the POR.

Mitsubishi states that in a review involving sampling it may be reasonable and permissible for the Department to assess duties on all entries at the ratio derived by dividing the dumping duties for the sample sales divided by the total value of those sample sales. However, Mitsubishi argues, in non-sampling cases such as the present case, the Department has on record an exact quantification of the total value of entries of subject merchandise during the POR. Consequently, Mitsubishi argues, the Department can compute an exact percentage for realizing the precise amount of dumping duties due in the event the Department wishes to have duties assessed uniformly across all entries during the POR. Alternatively, Mitsubishi suggests that the Department could instruct Customs that the assessment is to be capped at the level of the percentage margin.

Mitsubishi argues further that, in CEP sales reviews, the entries that are in excess of the entries accounting for sales of a particular review belong to the sales of other reviews. Mitsubishi argues that the duties relating to such entries are assessed and collected within the review period within which those sales occurred. Through consistent application of the proper methodology in each review, Mitsubishi argues, the appropriate dumping duties are calculated, assessed and collected on all entries subject to an order. Thus, Mitsubishi argues, the Department should revise the percentage duty variable or other aspects of its assessment methodology so as to ensure against an overcollection of duties.

Department's Position

We agree with Mitsubishi and the Unions that we should assess and collect the correct amount of duties payable. We believe that the best way to do so is the methodology which has become our established practice in recent years and which has been upheld by the courts. *See, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) From France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 61 FR 2081, 2083 (January 15, 1997); *FAG Kugelfischer Georg Schafer KgaA* v. *United States,* No. 92–07–00487, 1995 Ct. Int'l. Trade LEXIS 209, at CIT *10 (Sept. 14, 1995), *aff'd.* No. 96–1074 1996 U.S. App. LEXIS 11544 (Fed. Cir. May 20, 1996). This method, by which we calculate an importer-specific *ad valorem* duty assessment rate for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties, yields the best representation of what the dumping margins on sales of merchandise entered are, because in most cases respondents are unable to link specific entries to specific sales. Mitsubishi's proposal would require such a link, which it has not done for this review. For these reasons we will use our current methodology to calculate the assessment rates which we will instruct Customs to apply to entries during the POR.

Comment 13

Mitsubishi argues that the Department mistakenly treated domestic inland freight from the plant to the distribution warehouse on U.S. sales as if it were reported in dollars rather than yen. As a movement expense incurred entirely within Japan, Mitsubishi claims that the Department should multiply the reported expense by the dollar/yen exchange rate.

Department's Position

We agree with Mitsubishi and have made the appropriate currency conversion for the final results.

Comment 14

Mitsubishi argues that the Department did not deduct inland freight expenses to the customer from home market price and, for the final results, the Department should modify its margin calculations in order to adjust for these expenses.

The Unions argue that Mitsubishi's reported freight expenses have been misreported and cannot legitimately be used by the Department in its calculation for the final results (see earlier comment above). Accordingly, the Unions assert, the Department should reject Mitsubishi's claim for an adjustment to home market inland freight but, at a minimum, the Department must adjust the freight expenses reported by Mitsubishi to ensure that those expenses reflect a reasonable amount for transporting the merchandise from Mitsubishi's warehouse to the customer.

Department's Position

We agree with Mitsubishi. As explained in our response to Comment 3 above, at verification we found Mitsubishi's reported inland freight expenses to the customer to be accurate and complete. For the final results we have deducted those expenses from normal value.

Comment 15

Mitsubishi argues that the Department erroneously set direct selling expenses

for cost of production equal to zero in its calculations. Because the same variable is used later to calculate profit for CEP and CV, Mitsubishi claims, overriding its value with zero affects these calculations by overstating profit for CEP and CV. Mitsubishi argues that, although it is the Department's practice to eliminate one component of direct selling expenses—imputed credit expenses—from the profit calculation, there is no basis for eliminating all direct selling expenses.

Department's Position

We agree with Mitsubishi and have adjusted our calculations for the final results.

Comment 16

Mitsubishi notes that the Department erroneously did not calculate margins for U.S. sales that were compared to CV because the computer programming language referenced a non-existent data set. Mitsubishi claims that this caused a series of errors in subsequent parts of the program and suggests programming language which would correct this problem.

Department's Position

We agree with Mitsubishi and have ensured that we use all datasets appropriately.

Comment 17

Mitsubishi argues that the Department should modify its calculations in order to base the calculations of CV profit and expenses and CEP profit on all home market sales of the like product rather than just on sales of certain models. Mitsubishi claims that the Department incorrectly restricted these calculations to sales of large-screen sizes but that it should have based these calculations on all home market sales of the like product, including smaller-screen sizes. Mitsubishi notes that the foreign like product, as defined in the Department's questionnaire, is CPTs regardless of screen size. Further, Mitsubishi argues that the Department's practice is clear in this regard, citing *Professional Electric Cutting Tools from Japan; Final Results of Antidumping Duty Administrative Review (PECTs),* 62 FR 386, 389–390 (January 3, 1997), and *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore and the United Kingdom (AFBs VI),* 62 FR 2081, 2112–2113 (January 15, 1997), in which the Department used all sales of the foreign like product for the purposes of calculating CV and CEP profit and stated that it interpreted the term foreign like product to be inclusive of all merchandise sold in the home market which was in the same class or kind of merchandise as that under consideration.

The Unions state that in this case and in the cases Mitsubishi cites the Department properly calculated CV and CEP profit based on all sales that could potentially be used for comparison to the U.S. sales. The Unions add that the Department's past practice has been to include in its calculation of CV and CEP profit all home market sales of comparison models because these data encompass all foreign like products under consideration for normal value, referring to *Certain Internal-Combustion Industrial Forklift Trucks from Japan; Final Results of Antidumping Duty Administrative Review (Forklift Trucks),* 62 FR 5592, 5598 (February 6, 1997). Accordingly, the Unions argue, after eliminating sales below cost in the CV-profit calculation, the Department should continue to base the profit-rate calculation on sales of the same models as those it used in the preliminary results.

Department's Position

We agree with Mitsubishi that our calculation of CV and CEP profits should include all home market sales during the POR of the foreign like product. For purposes of calculating CV and CEP profit we use an aggregate calculation that encompasses all foreign like products sold in the home market. *See AFBs VI* at 2113; *PECTs* at 390; *Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27295, 27359 (May 19, 1997). The Unions have misconstrued our decision in *Forklift Trucks.* In that case, we applied the same methodology we applied in PECTs and are applying here. It is the facts of *Forklift Trucks,* not the methodology, that differs from the present case. Consistent with that methodology we determine the foreign like product is inclusive of all of Mitsubishi's reported home market sales, and we have calculated CV profit on an aggregate basis.

Final Results of the Review

As a result of our analysis of the comments received, we determine that the following dumping margin exists for the period January 1, 1995 through December 31, 1995:

Manufacturer/exporter	Margin (percent)
Mitsubishi	5.93

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Because the inability to link sales with specific entries prevents calculation of duties on an entry-by-entry basis, we have calculated an importer-specific *ad valorem* duty assessment rate for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between NV and CEP, by the total CEP value of the sales compared, and adjusting the result by the average difference between CEP and customs value for all merchandise examined during the POR.) The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following cash deposit requirements will be effective upon publication of these final results for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) For Mitsubishi the cash deposit rate will be the rate listed above; (2) if the exporter is not a firm covered in this review, a previous review, or the original less-than-fair-value investigation (LTFV), but the manufacturer is, the cash deposit rate will be that which was established for the most recent period for the manufacturer of the merchandise; (3) for non-Japanese exporters of subject merchandise from Japan, the cash deposit rate will be the rate applicable to the Japanese supplier of that exporter; (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 27.93 percent, the ''all others'' rate established in the LTFV investigation, as explained below. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

On May 25, 1993, the Court of International Trade (CIT) in *Floral Trade Council* v. *United States,* 822 F.Supp. 766 (CIT 1993), and *Federal-Mogul Corporation and The Torrington Company* v. *United States,* 822 F.Supp. 782 (CIT 1993), decided that once an ''All Others'' rate is established for a company it can only be changed through an administrative review. We

have determined that, in order to implement these decisions, it is appropriate to reinstate the ''All Others'' rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders. Therefore, we are reinstating the ''All Others'' rate made effective by the final determination of sales at LTFV (*see Color Pictures Tubes,* 52 FR 44171, November 18, 1987).

This notice also serves as a reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to APOs of their responsibility concerning disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34 (d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: June 11, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–811; A–412–810; C–428–812; C–412–811]

Initiation of Anticircumvention Inquiry on Antidumping and Countervailing Duty Orders on Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom and Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of anticircumvention inquiry.

SUMMARY: On the basis of an application filed with the Department of Commerce (the Department) on April 14, 1997 and amended on May 14, 1997, we are initiating an anticircumvention inquiry to determine whether imports of lead and bismuth carbon steel billets from Germany and the United Kingdom are circumventing the antidumping and countervailing duty orders on hot-rolled lead and bismuth carbon steel products from Germany and the United Kingdom (*See Antidumping Orders; Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from Brazil, France, Germany and the United Kingdom* 58 FR 15334 (March 22, 1993) and *Countervailing Duty Orders; Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany and the United Kingdom* 58 FR 15325, 15327 (March 22, 1993)).

EFFECTIVE DATES: June 25, 1997.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro, Russell Morris, or Maria MacKay, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On April 14, 1997, the Department received an application (amended on May 14, 1997) from Inland Steel Bar Company and USS/Kobe Steel Company (the applicants), requesting that the Department conduct an anticircumvention inquiry pursuant to section 781(a) of the Tariff Act of 1930, as amended (the Act), with respect to the antidumping and countervailing duty orders on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom and Germany. The applicants allege that the principal German (Saarstahl A.G. and Thyssen Stahl A.G.) and British (British Steel PLC) producers of hot rolled leaded bar and rod are circumventing the respective orders by shipping bloom-cast leaded-steel billets (leaded-steel billets) to the United States, where they are easily and inexpensively converted into the hot-rolled carbon steel products covered by the orders.

The Department received written comments opposing the request to initiate the inquiry from Thyssen Stahl A.G. (Thyssen) on May 12, 1997, from Saarstahl A.G. (Saarstahl) on May 16, 1997, from British Steel PLC (British Steel) on May 23, 1997, and from the European Community (EC) on May 27, 1997. Written comments in opposition to the initiation of the inquiry were also received from four U.S. producers of subject merchandise: Bar Technologies on May 19, 1997, Sheffield Steel Corporation on June 2, 1997, Birmingham Steel Corporation on June 3, 1997 and Nucor Steel on June 5, 1997.

Initiation of Anticircumvention Proceeding

In accordance with section 781(a) of the Act, the Department may find circumvention of an order when the following four conditions are met:

(1) The merchandise sold in the United States is of the same class or kind as the merchandise that is subject to the order,

(2) Such merchandise is completed or assembled in the United States from parts or components produced in the foreign country to which the order applies,

(3) The process of assembly or completion in the United States is minor or insignificant, and

(4) The value of the parts or components produced in the foreign country with respect to which the order applies, is a significant portion of the total value of the merchandise sold in the United States.

In order to determine whether a circumvention inquiry is warranted, we evaluated the information submitted by the applicants using each of the criteria listed above. We have concluded that the information submitted is sufficient to warrant the initiation of an anticircumvention inquiry. Each criterion is separately addressed below.

(1) Is the Merchandise Sold in the United States of the Same Class or Kind as the Merchandise That Is Subject to the Order?

The merchandise covered by the orders is described as ''hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes.'' The leaded-steel billets being imported into the United States are alleged to contain 0.03 percent or more of lead or 0.05 percent or more of bismuth and, thus, meet the chemical requirements specified for the merchandise subject to the antidumping and countervailing duty orders. The applicants claim that the imported leaded-steel billets are then converted, in the United States, into the identical products that are covered by the orders.

(2) Is the Merchandise Completed or Assembled in the United States From Parts or Components Produced in the Foreign Country to Which the Order Applies?

The hot-rolled bars and rods allegedly are being completed in the United States from leaded-steel billets produced in the

United Kingdom and Germany—countries which are subject to the antidumping and countervailing duty orders on hot-rolled lead and bismuth carbon steel products (lead bar).

(3) Is the Process of Assembly or Completion Minor or Insignificant?

When considering whether the process of assembly or completion is minor or insignificant, section 781(a)(2) of the Act instructs the Department to take into account: (1) The level of investment and research and development in the United States; (2) the nature of the production process in the United States; (3) the extent of production facilities in the United States; and (4) whether the value of the processing performed in the United States represents a small proportion of the value of the merchandise sold in the United States. These criteria are individually addressed below.

Investment

The applicants state that the production of leaded-steel billet requires dedicated facilities and equipment. Thyssen, British Steel, and Saarstahl, according to the applicants, have made this substantial investment in their home countries. In contrast, rolling mills, which roll the leaded-steel billet into bar and rod, are alleged to require less capital investment and to be used to process other types of steel. Thus, the applicants conclude, the concentration of investment in semi-finished steel (*i.e.*, billets) production facilities in the home countries, relative to the rolling process performed in the United States, indicates that the level of investment in the United States is comparatively minor.

Research and Development (R&D)

Applicants also state that R&D costs are concentrated in the melt shop facility where leaded-steel billets are produced. As these facilities are located in the home countries, it follows that their associated R&D costs are incurred in the home countries. The level of R&D costs related to the U.S. rolling facilities is alleged to be minor in comparison.

Nature of the Production Process in the United States

The applicants describe the production process of lead bar as consisting of two stages. In the first stage, all raw material inputs (such as iron ore, limestone, coal, flux, and scrap) are heated in a furnace to become molten steel. The molten steel is then cast into semi-finished products, in this case either blooms or billets. The billets are cooled, before undergoing further shaping and finishing processes.

The second stage consists of the conversion of the leaded-steel billets into bar or rod in rolling mills. In this stage, billets are reheated and then loaded into a series of roughing, intermediate, and finishing stands or rolls. The information provided does not indicate that additional raw materials are added in this stage of the process; the chemical and physical characteristics of the steel have already been imparted in the production of the billet. Rolling merely converts the billet into a wide range of steel products of different shapes, for instance of round, hexagonal, square, rectangular, or flat cross section.

Extent of Production Facilities in the United States

The applicants claim to be the only U.S. steel makers which have made the capital investment necessary to produce both leaded-steel billets and lead bar. On this basis they conclude that the first stage in the production process of the subject merchandise, the billet production, occurs primarily abroad. The second stage of production, the re-rolling process, occurs instead primarily in the United States. The applicants note that many U.S. mills are capable of rolling purchased leaded-steel billets; however, those mills have not invested in melting and casting facilities.

Value of Rolling in the U.S. Compared to Value of Merchandise Sold in the U.S.

The applicants provided six different calculations of the value of the rolling operation performed in the United States. These calculations were based on supporting cost data and price quotations for both leaded-steel billets and finished bar and rod. Based upon these calculations, the applicants conclude that the rolling process represents an insignificant portion of the total value of the finished bar and rod sold in the United States.

(4) Is the Value of the Parts or Components Produced in the Foreign Country to Which the Antidumping and the Countervailing Duty Orders Apply, a Significant Portion of the Total Value of the Merchandise Sold in the United States?

As noted above, the applicants have presented six calculations of the value attributable to the rolling process. The applicants do not allege that any portion of the value added is attributable to third country processing. Therefore, the calculations suggest that, based on the value attributable to the processing in the United States, the value of the imported leaded-steel billets constitutes a significant portion of the total value of the merchandise sold in the United States.

Additional Factors

In addition to the criteria discussed above, § 781(a)(3) of the Act instructs the Department to consider other factors before determining whether to include the merchandise in question in an antidumping or countervailing duty order. These are: (1) The pattern of trade; (2) whether a relationship exists between the manufacturer or exporter and the U.S. assembler of the product; and (3) whether imports into the United States of the parts or components produced in the foreign country increased after the initiation of the investigation which resulted in the issuance of the order.

Pattern of Trade

The applicants claim that the pattern of trade has shifted subsequent to the issuance of the antidumping and countervailing duty orders, from the export of lead bars and rods to the export of leaded-steel billets, which are now being finished in the United States. The applicants argue that, by shifting exports to leaded-steel billets, these producers have found a way to continue to sell lead bar in the United States, without regard to the antidumping and countervailing duty orders.

Relationship Between the Manufacturer or Exporter and the U.S. Assembler

Applicants have stated that the U.S. re-rollers are not related to the foreign producers.

Import Statistics

The applicants have provided statistics on the basis of which they allege that imports of leaded-steel billets from Germany and the United Kingdom have increased since the investigations in 1992, while imports of bars and rods subject to the orders have markedly declined.

Based on our review of the foregoing allegations and supporting information submitted in the application, we find that the application contains sufficient evidence to warrant an anticircumvention inquiry. Therefore, we are initiating an anticircumvention inquiry concerning the antidumping and countervailing duty orders on lead and bismuth carbon steel products from the United Kingdom and Germany, pursuant to section 781(a) of the Act. For a more detailed discussion of the Department's analysis, see Memorandum to the Principal Deputy

Assistant Secretary for Import Administration from the Team dated June 18, 1997, concerning Initiation of Anticircumvention Inquiry of Antidumping and Countervailing Duty Orders on Certain Hot Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom and Germany, public version, on file in the Central Record Unit, Room B–099, Main Commerce Building.

The Department will not suspend liquidation at this time. However, the Department will instruct the U.S. Customs Service (Customs) to suspend liquidation in the event of an affirmative preliminary determination of circumvention.

Several interested parties have challenged the initiation of this anticircumvention inquiry. As discussed below their arguments do not provide a legal basis for rejecting Inland's and USS/Kobe's application for an inquiry.

(1) Whether There is an Industry Support Requirement for a Circumvention Inquiry

Several interested parties have argued that the Department must consider whether there is industry support for the anticircumvention inquiry before deciding whether to initiate. One party stated that the Department is required to ensure that the provisions of Article 11.4 of the Agreement on Subsidies and Countervailing Measures (SCM) on the standing of the domestic industry are adhered to. The parties contend that members of the U.S. industry who may have supported the imposition of antidumping and countervailing duties on lead bar may, in fact, oppose the imposition of such duties on leaded-steel billets. They cite a letter by a U.S. producer of lead bar opposing the initiation of an anticircumvention inquiry.

There is no statutory requirement regarding industry support for purposes of initiating a circumvention inquiry. *See* 19 U.S.C. 1677j(a). The regulations provide that any interested party has standing to file an application to determine whether a particular product is within the scope of an order. 19 C.F.R. 353.29(b) (1996), 19 C.F.R. 355.29(b) (1996). The requirement regarding interested party status has been carried over into the new regulations. *See* § 351.225(c). The statute and regulations define an interested party, in relevant part, as ''a manufacturer, producer, or wholesaler in the United States of a domestic like product.'' 19 U.S.C. 1677(9)(C). *See also* 19 C.F.R. 353.2(k)(3) and 355.2(i)(3). In this instance, Inland meets the definition of ''a manufacturer'' of the domestic like product. Although USS/Kobe was not listed as one of the original petitioners, it was listed as a domestic producer of the subject merchandise. Therefore, as interested parties, Inland and USS/Kobe are entitled to request a circumvention inquiry.

The statute requires a showing of industry support before an investigation may be initiated to determine whether an antidumping or countervailing duty order is warranted. 19 U.S.C. 1673a(c)(4) and 1671a(c)(4). In contrast, a circumvention inquiry is focused on the enforcement of existing orders—i.e. it is designed to determine whether merchandise is properly within the scope of an order that has already been issued. *See, e.g., Color Television Receivers From Korea; Initiation of Anticircumvention Inquiry on Antidumping Duty Order*, 61 FR 1339, 1342 (January 19, 1996) (*Korean TV's Circumvention*). Significantly, neither the statute nor prior Department practice requires that an interested party requesting a scope determination make such a showing of industry support. *Id.* The fact that the statute expressly requires a showing of industry support for initiating an investigation, but does not require such a showing for initiating an anticircumvention inquiry, is compelling evidence that no such requirement exists. Moreover, the lack of such a requirement is also indicated by the fact that the statute expressly prohibits reconsideration of the issue of industry support at any stage of the proceeding beyond initiation of the original investigation. 19 U.S.C. 1673a(c)(4)(E) and 1671a(c)(4)(E).

(2) Whether Leaded-steel Billets, Specifically Excluded From the Lead Bar Orders, Can Now be Included in the Scope of the Same Orders Through a Circumvention Inquiry

Several interested parties argue that the International Trade Commission (ITC) specifically determined that leaded-steel billets were excluded from its like product and domestic industry definitions, and, therefore, were not subject to its injury finding. Similarly, the Department expressly stated that ''semifinished steels'' were ''excluded'' from the scope of the lead bar orders. These parties argue that, absent an injury finding on leaded-steel billets, the assessment of antidumping and countervailing duties would be contrary to U.S. antidumping and countervailing duty law and would contravene the international obligation of the United States under the World Trade Organization (WTO) Agreement. In addition, because the ITC found that leaded-steel billets constitute a different like product, one party argues that leaded-steel billets cannot be considered a ''part or component'' of bar.

The Department faced a similar issue in *Steel Wire Rope from Mexico; Affirmative Final Determination of Circumvention of Antidumping Duty Order*, 60 FR 10831 (February 28, 1995). In that case, the Department included within the scope of the order a component that previously had been excluded. Specifically, the original Mexican wire rope order expressly excluded steel wire strand which is used to produce wire rope. Nevertheless, the Department made an affirmative finding that steel wire strand imported into the United States for use in the production of steel wire rope was circumventing the order pursuant to section 781(a)(2) of the Act. While this was an ''old'' law case, the current statutory provisions governing circumvention are the same regarding this issue.

The same statutory analysis applies here as well. Simply put, the theory that parts expressly excluded from the scope of an antidumping or countervailing order can not be subject to an anticircumvention inquiry is contrary to, and would undermine, the core principles of the anticircumvention statute.

The underlying rationale of the anticircumvention statute is that, where the criteria of section 781(a) are met, the parts and components subject to the finding of circumvention are, in all meaningful respects, being imported as the subject merchandise, not as parts or components *per se*. The processing in the United States is of such a minor or insignificant nature as to be irrelevant. In other words, an affirmative finding of circumvention treats the parts and components as constructively assembled into subject merchandise at the time of import. As the legislative history states:

> [T]he application of the U.S. finishing or assembly provision will not require new injury findings as to each part or component. The anti-circumvention provision is intended to cover efforts to circumvent an order by importing disassembled or unfinished merchandise for assembly in the United States. Hence, the ITC would generally advise as to *whether the parts or components ''taken as a whole'' fall within the injury determination*. If more than one part or component is proposed for inclusion, the ITC would * * * determine whether the imported parts or components *can be constructively assembled* so as to constitute a like product for purposes of the original order * * * . The ITC would advise as to whether the inclusion of the parts or

components, *taken as a whole,* would be inconsistent with its findings in the prior injury determination. H.R. Conf. Rep. No. 576, 100th Cong., 2d Sess. 603 (1988) (emphasis added).

In short, it is plain that Congress intended to allow anticircumvention inquiries into parts or components such as the leaded-steel billets at issue here. Of course, the anticircumvention provisions are crafted to ensure compliance with the injury requirements of the statute and the WTO agreements on antidumping and countervailing measures. Thus, a circumvention finding can apply to parts and components that meet the criteria of section 781(a).

(3) Whether There Are Threshold Standards That Must Be Met in Requesting a Circumvention Inquiry

One interested party expresses a concern with respect to the sufficiency of the evidence presented in the application submitted to the Department and argues that, the application does not contain information on subsidization and injury of the leaded-steel billets. In their view, the Department should examine whether the leaded-steel billets benefit from the subsidy established in the original investigation on lead bar, before including this product in the scope of the lead bar orders.

The regulatory provisions on circumvention, which fall within the section on scope rulings, do not set forth specific requirements for the information that must be included in an anticircumvention application as compared to a petition for an investigation. *Cf.* 19 C.F.R. 353.12 and 355.12. The regulations simply state that applications for scope rulings, which include circumvention inquiries, must include:

(1) A detailed description of the product, including technical characteristics and uses of the product, and its current U.S. Tariff Classification Number;

(2) A statement of the interested party's position as to whether the product is within the scope of an antidumping order, including

(i) A summary of the reasons for this conclusion,

(ii) Citations to any applicable statutory authority, and

(iii) Attachment of any factual support for this position, including applicable portions of the Secretary's or the Commission's investigation.

19 C.F.R. 353.29(b). *See also* 19 C.F.R. 355.29(b). These requirements are essentially the same in the new regulations. *See* § 351.225(c).

The legislative history of the URAA provides some additional guidance on the standards for initiation of anticircumvention inquiries. The Senate Report states that ''the Committee expects Commerce to initiate circumvention inquiries in a timely manner and generally consistent with the standards for initiating antidumping or countervailing duty investigations.'' S. Rep. 103–412, 103rd Cong., 2d Sess. 83 (1994). The Department has interpreted that report language to mean that the general evidentiary requirements for initiating petitions (*e.g.,* allege the elements necessary for relief, accompanied by information reasonably available to support those allegations) apply to anticircumvention requests. *Korean TV's Circumvention,* 61 FR 1342.

Furthermore, as described above, should the Department determine that the criteria of section 781(a) are met, we would consider the parts and components, in all meaningful respects, to be the subject merchandise upon being imported. Therefore, the Department's original subsidization and injury determinations reached with respect to the subject merchandise will be equally valid for the parts and components being completed or assembled in the United States which have been determined to be included within the scope of the order. Pursuant to section 781(e) of the Act, the ITC will be notified prior to any proposed action that the Department may take which would result in a final affirmative finding of circumvention.

(4) Whether a Company Excluded From an Order Can Be Included in a Circumvention Inquiry

Thyssen notes that it was excluded from the countervailing duty order on lead bar from Germany because it received a *de minimis* rate in the investigation. Accordingly, it argues that its exports of leaded-steel billets cannot be found to be within the scope of the countervailing duty order on lead bar.

While we agree with Thyssen with respect to the countervailing duty order, Thyssen remains covered by the antidumping duty order under the ''all other'' category. As such, Thyssen will be included in our examination of the alleged circumvention of the antidumping duty order on lead bar from Germany.

This notice is published in accordance with section 781(a) of the Act (19 U.S.C. 1677j(a)) and 19 CFR 353.29 and 19 CFR 355.29.

Dated: June 18, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–16683 Filed 6–24–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–703]

Certain Internal-Combustion Industrial Forklift Trucks From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 6, 1996, the Department of Commerce published the preliminary results of administrative review of the antidumping duty order on certain internal-combustion industrial forklift trucks from Japan. The review covers three manufacturers/exporters. The period of review is June 1, 1993 through May 31, 1994.

Based on our analysis of the comments received, we have made changes, including corrections of certain clerical errors, in the margin calculation for Toyota Motor Corporation. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: June 25, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas O. Barlow, Davina Hashmi or Kris Campbell, at Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), and to the Department's regulations are references to the provisions in effect on December 31, 1994.

Background

On August 6, 1996, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order

on certain internal-combustion industrial forklift trucks from Japan (61 FR 40813) (Preliminary Results). This review covers the following manufacturers/exporters: Toyota Motor Corporation and Toyota Motor Sales, U.S.A., Inc. (Toyota), Nissan Motor Company (Nissan), and Toyo Umpanki Company, Ltd. (Toyo). The period of review (the POR) is June 1, 1993, through May 31, 1994.

We invited parties to comment on our Preliminary Results. We received briefs and rebuttal briefs on behalf of NACCO Materials Handling Group, Inc. (petitioners), and Toyota. At the request of Toyota, a hearing was scheduled but was subsequently canceled at Toyota's request. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

The products covered by this review are certain internal-combustion, industrial forklift trucks, with lifting capacity of 2,000 to 15,000 pounds. The products covered by this review are further described as follows: assembled, not assembled, and less than complete, finished and not finished, operator-riding forklift trucks powered by gasoline, propane, or diesel fuel internal-combustion engines of off-the-highway types used in factories, warehouses, or transportation terminals for short-distance transport, towing, or handling of articles. Less-than-complete forklift trucks are defined as imports which include a frame by itself or a frame assembled with one or more component parts. Component parts of the subject forklift trucks which are not assembled with a frame are not covered by this order.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 8427.20.00, 8427.90.00, and 8431.20.00. The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

This review covers the following firms: Toyota, Nissan, and Toyo.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain corrections that changed our results. We have also corrected certain programming and clerical errors in our Preliminary Results, where appropriate, as discussed below.

Analysis of Comments and Responses

Issues raised in the case and rebuttal briefs by parties to this administrative review are addressed below.

Toyota's Comments

Comment 1

Toyota contends that the Department properly included U.S. commissions in determining the exporter's-sales-price-offset cap (ESP-offset cap) but improperly excluded U.S. indirect selling expenses (citing section 773(a)(4)(B) of the Act and 19 CFR 353.56(b)). Toyota notes that the preliminary results analysis memo correctly describes the ESP-offset cap as the sum of U.S. commissions and U.S. indirect selling expenses. Toyota asserts that the Department should include U.S. indirect expenses, including imputed expenses, in the ESP-offset cap for purposes of the final results.

Department's Position

We have included Toyota's reported U.S. indirect selling expenses in the ESP-offset cap for the final results.

Comment 2

Toyota maintains that, in calculating the adjusted U.S. price (USP) for the preliminary results, the Department incorrectly deducted U.S. discounts from Toyota's reported gross unit prices. Toyota states that the gross unit prices were reported net of such discounts so that the Department's subsequent deduction of these discounts amounts to double counting. Toyota asserts, therefore, that the Department should not deduct the discounts from respondent's reported gross unit prices for the final results.

Department's Position

Because Toyota reported the gross unit prices net of such discounts, we did not make the deduction for the final results.

Comment 3

Toyota asserts that the Department incorrectly used the variable MONTHU (which represents the month of the invoice date on the U.S. sales listing) in matching U.S. sales to home market sales. Toyota states that this error caused the Department to compare many of the reported U.S. sales to constructed value (CV) although there were appropriate matches on the concordance. Toyota contends that the Department should not use the invoice-date variable on the U.S. sales listing to match to the comparison sales on Toyota's concordance. In the alternative, Toyota suggests that the Department redefine the matching variable as shipment date.

Petitioners argue that the Department should not modify the matching variables it used to match U.S. sales to the concordance listing. Petitioners assert that the Department's decision to use the invoice date as one of the variables used to match U.S. sales to its concordance stems from Toyota's contradictory and confusing description of the date of sale in its responses. Petitioners also argue that, if the Department revises the matching variables, the Department would, in essence, be permitting Toyota to manipulate the administrative process by selecting a date of sale that would produce more matches. Petitioners further contend that the Department should instead use the order date as a matching variable because the order date reflects the date upon which Toyota's essential sale terms are established.

Department's Position

We have eliminated the variable MONTHU when matching Toyota's U.S. sales to its concordance. The price and quantity terms for the vast majority of Toyota's U.S. sales were established upon shipment of the trucks. Accordingly, Toyota prepared its concordance using shipment date as the date of sale in determining appropriate HM and U.S. matches within the 90/60-day contemporaneity window. In so doing, Toyota followed the instructions that we provided in our questionnaire. Therefore, because Toyota appropriately used shipment date in developing the concordance, it is inappropriate to apply the MONTHU variable when matching U.S. sales to Toyota's concordance.

Comment 4

Toyota argues that the Department should exclude used, aged and off-spec trucks sold in the United States from the antidumping analysis. In the alternative, Toyota maintains that the Department should modify its treatment of these sales to ensure that it makes appropriate comparisons of these sales. Toyota contends that these trucks were sold out of the ordinary course of trade at significant discounts and, although new when imported, they were used, aged or off-spec when sold to the first unaffiliated purchaser in the United States.

Citing *Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value for Certain Internal-Combustion Forklift Trucks From Japan*, 53 FR 20882, 20883 (1988), Toyota argues that the principle of excluding a used forklift truck from review should not change merely because the truck was used in the United States rather than in Japan. Therefore, Toyota maintains, given that

the scope excludes used trucks, the Department should exclude these trucks from the final analysis.

Toyota also maintains that sales of aged and off-spec merchandise should be excluded because they amount to a small percentage of its U.S. sales and because the trucks are not ''new'', unlike the trucks which are the true focus of this review (*citing Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Foam Extruded PVC and Polystyrene Framing Stock From the United Kingdom,* 61 FR 22021, 22022 (1996)).

In the alternative, Toyota argues that the Department should make an adjustment when making its comparisons to avoid the distortions created by the inclusion of these trucks in its analysis. Toyota states that a comparison of these sales to home market sales of new forklifts amounts to unwarranted use of adverse best information available (BIA) and recommends that the sales should be compared to similarly situated sales in the home market (citing, among others, *Porcelain-on-Steel Cooking Ware From Mexico: Final Results of Antidumping Duty Administrative Review,* 58 FR 43327, 43328 (1993)).

Toyota further states that, given that there are no such comparable sales in the home market, the Department should resort to reasonable BIA instead of comparing these U.S. sales to home market sales. Toyota proposes several ways the Department could reasonably account for differences between the trucks, such as adjusting USP upward or home market price downward or applying a weighted-average dumping margin to these trucks, calculated on the basis of all other sales of new merchandise in the United States (citing *Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Reviews,* 56 FR 37339, 37341 (1991)).

Petitioners respond that the Department should reject Toyota's claim for a variety of reasons. First, Toyota has admitted the trucks were new when imported and the scope of the order excludes only trucks that were used at the time of entry. Petitioners add that the Department has determined that it will not exclude any U.S. sales that involve a transfer of ownership even if the sales are aberrational and that the age or condition of a truck is not relevant to whether it is subject to the scope of the order (citing *Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea: Final Results of Antidumping Duty Administrative Review,* 60 FR 42835, (August 17, 1995)).

With respect to Toyota's alternative argument that the Department should make an adjustment to the margin calculation if it includes these trucks in the dumping analysis, petitioners assert that the cases Toyota cites to support such an adjustment are factually distinct from the situation in this case because, unlike those cases, the merchandise at issue is not scrap, of poor quality, or substandard. Petitioners add that, in the cited cases, the Department did not make an adjustment to account for differences in quality but instead sought to match U.S. sales of inferior quality to merchandise of similar quality in the home market (citing *Porcelain-on-steel Cookware from Mexico; Final Results of Antidumping Duty Administrative Review,* 58 FR 43327, 43328 (August 16, 1993)). Petitioners argue that, if merchandise with similar specifications had been sold in the home market, the model-match methodology would have resulted in a match of similar off-spec trucks. Furthermore, petitioners assert, Toyota never specifically identified whether any home market sales were similarly off-spec and could have been matched. Petitioners conclude that any deficiency in matching is solely Toyota's fault.

Department's Position

With respect to used trucks, the scope of the order only excludes trucks that were ''used'' at the time of entry. The order does not exclude trucks that are aged, ''off-spec,'' or become ''used'' after importation.

In the less-than-fair-value (LTFV) investigation of this order, we determined that a forklift could be considered ''used'' and excluded from the order if, at the time of entry into the United States, the importer could demonstrate to the satisfaction of the U.S. Customs Service that the forklift was manufactured in a calendar year at least three years prior to the year of entry into the United States. See *Final Determination of Sales at Less Than Fair Value; Certain Internal-Combustion Industrial Forklift Trucks From Japan,* 53 FR 12552 (April 15, 1988). Toyota admits the relevant trucks for this POR were imported new. Therefore, they are properly subject to review and we have not excluded them from our analysis.

Moreover, Toyota has neither established that the trucks were used, aged, or off-spec to an extent that an adjustment is warranted nor has it provided information that would permit us to quantify and make such an adjustment. Therefore, our treatment of these trucks remains unchanged from the Preliminary Results.

Comment 5

Toyota claims that the Department incorrectly categorized the reported indirect selling expenses that its U.S. affiliate, Toyota Motor Credit Corporation (TMCC), incurred in financing sales of subject merchandise as direct expenses. Toyota states that TMCC's indirect selling expenses were allocated to U.S. sales for which TMCC provided financing and contends that the expenses are indirect because they are fixed and are incurred regardless of whether a particular sale is made.

Toyota states its supplemental questionnaire response clearly indicates that these expenses consist of indirect operational and administrative expenses, not variable expenses (*citing* Toyota's January 16, 1996 submission at Supp. 46). In addition, Toyota argues that it stated for the record that it ''does not pay commissions for credit investigations or for preparing and processing documents'' (*citing* Toyota's February 8, 1996 submission). Toyota further indicates that it did identify certain small expenses that were variable that the Department appropriately categorized as such. Toyota concludes that there is no reason to arbitrarily recategorize the expenses as direct.

Toyota notes that the preliminary analysis memorandum incorrectly states that no adjustment was made for TMCC's reported indirect expenses in the preliminary results and incorrectly states that this expense is ''credit revenue'', which was added to USP. Toyota asserts that the expense is not credit revenue, that it was not added to USP, and that it should not be included in U.S. direct expenses.

Petitioners argue that, while they do not believe the Department should make any adjustment for credit revenue TMCC earned, if the Department decides credit revenue is related directly to the sale, it must also recognize that expenses TMCC incurred may also be related directly to the sale. Petitioners assert that Toyota did not meet its burden of proof that these expenses are not directly related to the sales (citing 19 CFR 353.54). In addition, petitioners state that Toyota never provided any detailed itemization of the expenses that would have allowed the Department to determine whether the expenses incurred were directly related to sales. Petitioners suggest that, although Toyota now alleges that these expenses are fixed and are incurred by TMCC regardless of whether a sale is made, there is nothing in Toyota's

questionnaire response to support such a claim. Petitioners conclude that Toyota's description of these expenses is not sufficiently detailed to allow the Department to determine the exact nature of the expenses and, accordingly, the Department should treat these expenses as direct selling expenses for the final results.

Department's Position

Because the record reveals that the relevant expenses are fixed expenses, not variable, we have treated TMCC's reported expenses as indirect expenses for the final results. In reporting sales where payment was made through TMCC, Toyota reported a sale-specific direct credit revenue and a sale-specific direct imputed-credit expense. Toyota also allocated a portion of TMCC's overhead to the sales and separately reported them as TMCC's indirect selling expenses. The record indicates that virtually all of the reported expense are indirect in nature. In addition, treating as direct that portion of the reported expenses that could be considered direct (*e.g.*, filing fees), if they could be isolated, would have no effect on the margin, given the extremely low dollar-value of such expenses in comparison to the sales values of this merchandise. Therefore, we have treated TMCC's reported indirect expenses as indirect for the final results.

Comment 6

Toyota asserts that the Department's proposed method for assessing duties will result in the calculation and assessment of duties on lease transactions despite the Department's determination that Toyota's operating leases are not subject to review. Toyota notes that the preliminary results indicate that the Department calculated an importer-specific *ad valorem* duty-assessment rate, based on the ratio of the total amount of duties calculated for the examined sales during the POR to the total customs value of the sales used to calculate the duties, which the Customs Service will assess uniformly on all entries during the POR. Toyota asserts that the Department should calculate an assessment rate with respect to all merchandise reported by taking the total antidumping duties for sold and leased trucks (which will be zero for the latter) divided by the total customs value of the sold and leased trucks, which Customs should then apply to all forklift trucks entered during the POR.

Petitioners assert that Toyota misconstrues the purpose of the proposed assessment method, which is to eliminate the problems caused by assessing duties on individual entries through the creation of a ''master list.'' Petitioners assert that lowering overall duties on subject trucks would defeat the purpose of the antidumping law to assess duties to offset the unfair trade practice with respect to sales subject to the order, which would not be accomplished if the Department decreased the assessment on products covered while imposing duties on merchandise not covered by the order. Petitioners contend that lowering the duty-assessment rate would allow a respondent to manipulate the prices of entries that would never be subject to analysis so as to lead to a lower total assessment of antidumping duties.

Petitioners assert that the solution to any perceived problem is to ensure that the Department only assesses duties on trucks subject to review and Toyota is aware of which trucks were sold and which were leased. Petitioners contend that the Department could eliminate the total entered value of leased trucks from the total entered value of all trucks to arrive at the total entered value for trucks subject to the order in its calculation of the appraisement rate, which Customs can then apply to the total entered value for trucks subject to the order. Petitioners further assert that, regardless of the method the Department uses to accomplish the task, it should make no change in its calculation of the cash deposit rate.

Department's Position

We agree with petitioners that, by using an assessment-rate methodology, we are able to eliminate the problems caused by assessing duties on individual entries through the creation of master lists. However, we agree with Toyota that, short of creating a master list, its proposal is reasonable and in accordance with our practice. In *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Finding* (61 FR 57629 (November 7, 1996) (*TRBs*), we were confronted with the issue of establishing an assessment rate for bearings where some bearings were not subject to assessment under the principles formulated in *Roller Chain Other Than Bicycle From Japan*, 48 FR 51804 (November 14, 1983). Given that trucks that potentially were leased subsequent to entry into the United States are subject to assessment of antidumping duties, a similar treatment is appropriate here. In *TRBs* we determined that the assessment rate should take into account the value of ''Roller Chain'' merchandise. Accordingly, we included the value of the ''Roller Chain'' merchandise in the denominator when we calculated an assessment rate. Likewise, in this case, we have included the customs value of the leased trucks in the denominator. While this will have the effect of reducing the percentage assessment relative to the rate that we would calculate by excluding these values, this lower assessment rate, when applied against all POR entries, will allow Customs to collect the appropriate amount of antidumping duties due and will effectively exclude the lease trucks from assessment. Finally, we agree with petitioners that a change in the calculation of the cash deposit rate is not appropriate, because it is not possible at the time of entry to distinguish trucks that will be sold from those that will be leased.

Comment 7

Toyota contends that, in the CV portion of the Department's preliminary calculations, the application of the statutory minima for selling, general and administrative expenses (SG&A) and profit is incorrect in that if the actual amounts exceed the minima the Department used the minima and vice versa. Toyota argues that the Department should reverse the signs it used in the calculations of SG&A and profit for CV for the final results.

Department's Position

We agree with Toyota and have made the necessary changes in the calculations for these final results.

Comment 8

Toyota and petitioners both state that the Department incorrectly used two different databases to calculate SG&A for CV. Petitioners note that, when the Department tested SG&A against the statutory minimum, it based the selling expenses on the selling expenses Toyota reported in its home market sales listing. However, both parties contend that, when the Department actually calculated SG&A, it used the total selling expenses Toyota reported in its CV response. Petitioners suggest that the Department should rely on the CV information for purposes of determining whether Toyota's actual SG&A expenses meet the statutory minimum and for purposes of calculating SG&A because it represents the total selling expenses reported by Toyota for its CV data. Toyota argues that for the sake of

internal consistency, the Department should use the selling expenses Toyota reported in its home market sales listing.

Department's Position

We agree with both petitioners and respondent that we must use consistent data with respect to the expenses we use in performing the SG&A statutory minimum test and in the use of SG&A in the calculation of CV. However, we disagree with petitioners' proposal that we use the CV expense information in both calculations. It is our practice to use actual home market expenses to calculate SG&A and in performing the statutory minimum test for SG&A. Therefore, we agree with Toyota that, in accordance with our practice, we should use the expenses reported in the home market sales listing in both performing the SG&A statutory minimum test and in the use of SG&A in the calculation of CV.

Petitioners' Comments

Comment 1

Petitioners maintain that, even though the Department recognized in the 1994–95 review of this order that the data could not be verified, it nevertheless decided to rely on the same type of data in this review without conducting a verification. Petitioners state that the Department cannot rely on data that it knows are not reliable and asserts that the decision to accept it for this review constitutes a major breach of discretion and violation of law.

Petitioners note that the Department conducted this review concurrently with the 1994–95 review of this order. Petitioners state that they requested verification of Toyota's responses in both reviews because of serious deficiencies and omissions in Toyota's responses, but that the Department conducted verification in the subsequent (1994–95) review only. Petitioners further state that their concerns were shown to be justified when the Department determined it could not verify certain information in the 1994–95 review and instead relied on facts otherwise available to calculate the dumping margins with regard to the unverifiable information.

Petitioners argue that the Department must reject the data in Toyota's response in this review that could not be verified for the 1994–95 review period. Petitioners maintain that, at a minimum, Toyota's inability to pass verification in the 1994–95 review provides good cause for the Department to verify the responses in this review and they note that the Department is under no statutory deadline to complete this review. Therefore, petitioners argue, the Department should undertake a thorough verification of Toyota's cost and sales responses for the 1993–94 review period.

Citing section 776 of the Act, Toyota responds that neither of the factors requiring verification (no verification in the previous two reviews or the existence of good cause) are present in this review. Therefore, Toyota contends, the Department properly declined to verify Toyota's responses in this review.

Toyota maintains that it is illegal to apply the conclusions from a verification in one review to the data in a separate review (citing 19 CFR 353.2(q)). Toyota states that, where the Department does not conduct verification, it must use the submitted data in its analysis. Toyota adds that the issue of whether data from a separate review could be verified has no bearing on whether the corresponding data in this review are acceptable. Toyota notes that it would make as much sense, and would be equally unlawful, to apply the results of the 1987–89 review verification to this review.

Second, Toyota maintains that the data-specific conclusions in the 1994–95 review, which involve a different set of data and a different time period, have no bearing on whether good cause exists to verify the data in this review. Toyota notes that, because the pre-Uruguay Round Agreements Act (URAA) law and regulations do in fact require the Department to complete this review in a timely manner, this issue is only being raised because of the overlap of reviews, an overlap that should not have occurred. Toyota claims that under the law it would be impossible to raise the argument of whether the verification of specific items in one review should have a bearing on verification issues in a prior review. Finally, Toyota maintains, it would be unfair for the Department to add to the delay of the final results of this review.

Department's Position

Section 776(b) of the Act states that the Department must verify information relied upon in making a determination in a review if (1) verification is timely requested by an interested party and no verification was made during the two immediately preceding reviews, or (2) good cause for verification is shown. *See* sections 776(b)(3)(A) and (B) of the Act and 19 CFR 353.36(a)(iv) and (v).

Because we verified Toyota's data during the first of the two immediately preceding reviews, we were not required to conduct a verification of Toyota's responses in this administrative review. In accordance with the statute and regulations, we verified Toyota's responses in the 1994–95 administrative review because no verification had been conducted in either of the two immediately preceding reviews.

We disagree with petitioners that good cause exists for verification of Toyota's responses in this review based on either the responses themselves or on problems encountered in verifying the same or similar items in the 1994–95 review. At the time we made the decision not to verify Toyota's information submitted for this review, we were satisfied that the information was appropriate to use in our dumping analysis. This determination remains unchanged despite problems we subsequently encountered at verification in the 1994–95 review. Each review is a separate, independent segment of the overall proceeding. A respondent's data is clearly unique to a period, and the respondent's level of cooperation and preparation in the review, including verification, can and often does vary. Therefore, it is our general practice not to apply the results of verification conclusions reached in one review to another (*see, e.g., Final Results of Antidumping Duty Administrative Reviews; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan,* 58 FR 64720, 64727 (December 9, 1993)). We note that the facts otherwise available (facts available) determinations in the 1994–95 review were substantially driven by our conclusion that Toyota failed to cooperate with regard to the relevant verification items. Because this situation did not arise in the instant segment of the proceeding, applying best information otherwise available (BIA) to the relevant expenses in this review would be inappropriate.

Finally, we note that, contrary to Toyota's position, 19 CFR 353.2(q), which defines a proceeding, does not segment a ''proceeding'' into review periods. A proceeding commences with the filing of a petition and is concluded with, for example, revocation of the order.

Comment 2

Petitioners assert that Toyota's variable cost-of-manufacture (VCOM) data, reported on the U.S. and home market sales listings for purposes of a difference-in-merchandise (difmer) adjustment, are not acceptable because they are not consistent with Toyota's

cost of production (COP) and constructed value (CV) data and they are based on costs for certain components and on price or market value for other components. Therefore, petitioners argue, the Department should reject Toyota's difmer data and use the VCOM amounts reported in the COP and CV data to make difmer adjustments for the final results.

Petitioners assert that the antidumping questionnaire indicates that any claimed difference-in-merchandise adjustment should be limited to differences in variable costs without regard to prices. Petitioners note that Toyota acknowledges in submissions to the Department that the difmer data are inconsistent with the COP/CV data. Petitioners claim that case precedent indicates that VCOM amounts reported for the difmer adjustment and for COP/CV should not differ (citing *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Spain,* 59 FR 66,931, 66938 (December 28, 1994), and the Statement of Administrative Action (SAA), at 828).

Petitioners state that allowing a respondent to report different VCOM amounts for purposes of the difmer adjustment and for COP/CV allows for the possibility of manipulation of the dumping analysis. Therefore, petitioners argue, the Department should reject Toyota's difmer data and use the VCOM data in Toyota's COP and CV database to determine the difmer adjustment.

Toyota responds that petitioners' arguments are groundless. Toyota asserts that the Department specifically approved of Toyota's method of reporting difmer data in the original investigation and in the preceding administrative reviews. Toyota states that it reported difmer data consistent with its reporting in prior segments of the proceedings.

Toyota states that the record is clear that, given its accounting system, it could submit the data in a form slightly different from that which the Department requested by including the invoice prices of certain options and attachments instead of their variable costs of production. Toyota asserts that 19 CFR 353.57 supports its approach as it states the Department ''normally will consider differences in the cost of production but, where appropriate, may also consider differences in the market value.'' Toyota indicates that, because the prices of the attachments are based on uniform price lists, the differences in such prices represent differences in market value. Toyota also disputes petitioners' assertion that such an approach is subject to manipulation and points out that the prices are published in Toyota's price list.

Finally, Toyota notes that it used its difmer data to generate the concordance on which the Department relied for product matching and suggests that to change the values now would require Toyota to rematch its sales and revise the concordance. Toyota argues that, given that the difmer values are appropriate and accurate and reflect a methodology acceptable in prior reviews in selecting similar home market sales and adjusting those sales for comparison purposes, there is no compelling reason to change these data now.

Department's Position

We have utilized Toyota's reported cost information (COP and CV) to calculate the difmer adjustment for the final results. However, we do not believe that it was inappropriate for Toyota to submit its difmer data based in part on invoice prices and we have used this data for matching purposes.

When we issued the questionnaire, we had not yet initiated a cost investigation of Toyota. Therefore, based on prior experience with Toyota in the investigation and administrative reviews, in which we recognized the difficulties in collecting variable cost information for small attachments, we determined that it was acceptable for Toyota to derive and present its difmer data as it had presented the information in prior segments of this proceeding. However, unlike prior segments of this proceeding, during the course of this review we initiated a cost investigation of Toyota's sales and obtained complete cost information, including costs for the attachments for which Toyota was previously only able to give prices.

The VCOM data from the sales listing, which Toyota used to develop the concordance according to our instructions, is sufficiently precise to allow us to determine which U.S. and comparison-market merchandise ''may reasonably be compared.'' *See* section 771(16)(C)(iii) of the Act. Further, Toyota calculated the VCOMs that we compared in making this determination using the same methodology for both markets, *i.e.*, VCOMs that are generally cost-based with the exception of certain attachments that Toyota valued using invoice prices to its customers. Therefore, we have used the concordance Toyota submitted for sales-matching purposes and do not find it necessary to revise the concordance in order to take into account the COP/CV information.

However, as a result of our cost investigation, we have more precise VCOM data, because Toyota provided cost-based values for its attachments. Accordingly, we have used the COP/CV data to make the difmer adjustment in our calculations. The difmer adjustment to FMV is mandated by the statute to account for differences between the U.S. and home market products under comparison. *See* section 773(a)(4)(C) of the Act. Given that the more precise, cost-based information is on the record of this review, it is more appropriate to use the COP/CV data for the actual adjustment where we compare sales of non-identical merchandise. Therefore, in the final results we have used Toyota's VCOM data as reported in the COP and CV databases to adjust for physical differences in the merchandise.

Comment 3

Petitioners claim that, in providing its cost data, Toyota refused to provide any evidence that its transactions with certain related suppliers were at arm's length. Petitioners argue that Toyota's claimed inability to obtain its related suppliers' cost data cannot absolve it of the burden of demonstrating that the transactions were arm's length. Petitioners assert that Toyota's claim that its transactions with related suppliers are always at arm's length and that Toyota cannot obtain access to its suppliers' cost data is directly contradicted by information the Department gathered in the investigation of New Minivans from Japan (*Initiation of Antidumping Duty Investigation: New Minivans from Japan*, 56 FR 29221 (June 26, 1991) (*Minivans*)). Citing the record in *Minivans,* petitioners state that Keiretsu have group members known to exchange information and take a long-term view of cost recovery for products. Petitioners note that Keiretsu members may separately reimburse other members for pricing below their costs and, therefore, Toyota may be making separate payments to its related suppliers that have not otherwise been reflected in its reported costs. Thus, petitioners contend, Toyota's unsupported claims are in conflict with information the Department already possesses. Petitioners argue that, other than rejecting Toyota's questionnaire response, the Department must request supplemental information concerning Toyota's transfer prices as well as information on any payments, assists, or other transactions between Toyoda Automatic Loom Works Ltd. (TAL) or Toyota Motor Corporation (TMC) and these related suppliers.

Petitioners also claim that, despite a specific request by the Department to provide the information, Toyota failed

to provide the actual costs for inputs from suppliers who share common ownership of 50 percent or more with Toyota. Petitioners state that, instead of providing the information requested by the Department, Toyota responded to this request with a claim that its transactions are at arm's length and with costs for a self-selected representative model. Petitioners conclude that Toyota should have submitted the complete information the Department requested and that, even if Toyota were allowed to rely on the prices from these related suppliers, it still has not adequately demonstrated that its transactions with these related suppliers are at arm's length. Rather, petitioners claim, costs for a ''representative'' model are insufficient to demonstrate that Toyota's transactions with these related parties are at arm's length and cite to *Hyster Co.* v. *United States*, 848 F.Supp. 178, 187 (CIT 1994) (*Hyster*) in support of this proposition.

Toyota asserts that the information it submitted demonstrates that transactions between TAL and its related suppliers are at arm's length and that TAL engages in competitive bidding and negotiation processes with its suppliers. Therefore, Toyota maintains, it appropriately based its COP calculations on prices paid by TAL rather than its suppliers' COP. Toyota claims that it did not purchase identical parts during the same time period from different suppliers so it is not possible to compare prices from related and unrelated suppliers. Toyota notes, however, that it submitted data for certain major components as well as actual costs based on a representative model for purchases from more-than-50-percent-related suppliers which demonstrate that the purchases were above cost, a strong indicator that they were arm's-length transactions. Toyota states that, despite its detailed explanation of why it cannot obtain an entire universe of its suppliers' cost data for all parts for all sales (citing its March 29, 1996 submission), petitioners continue to rely on a memorandum in the record of the *Minivans* investigation which, contrary to petitioners' assertions, does not contradict Toyota's statements that it cannot obtain access to its suppliers' cost data. Toyota further states that the memorandum is largely irrelevant to this administrative review of forklift trucks. Toyota notes that, even if TAL could obtain the costs from its less than 50-percent-related suppliers, the data would be of minimal utility because it would be an impossible task to substitute the suppliers' costs within TAL's accounting system for each of approximately 2,000 or more components at issue. Toyota notes that such a task, even if feasible, would be of limited use because the cost information would not conform to TAL's accounting system.

Toyota also maintains that it affirmed in its cost responses that all parts it purchased were purchased at arm's length and at prices that exceeded the suppliers' COP (citing its December 20, 1995 and January 11, 1996 submissions). Toyota further states that it provided costs of all parts from more-than-50-percent-related suppliers based on a representative model and provided the fully loaded costs for certain engines. Toyota concludes that it was thorough and comprehensive in responding to the Department's questionnaires on this issue (citing Toyota's March 29, 1996 submission).

Department's Position

We have determined that Toyota has established the arm's-length nature of inputs supplied by TAL's related suppliers. Section 773(e)(2) of the Act states that ''[a] transaction directly or indirectly between [related parties] may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount annually reflected in sales in the market under consideration of merchandise under consideration.'' For its related suppliers of inputs, Toyota responded that it could not provide market-value sales prices between related suppliers and third parties or between TAL and unrelated suppliers of the same inputs because the information was not obtainable given the large number of inputs and the enormous variety of forklift configurations or such transactions did not exist. Toyota did, however, supply cost information for a number of inputs supplied by related parties. It is the Department's practice to permit limited reporting in appropriate circumstances, such as a case like this where there are scores of parts used in the production of a forklift truck, there are no third-party transactions on which to rely, and the respondent is unable to obtain cost information or prices to other purchasers from its suppliers. We disagree with petitioners that *Hyster* requires us to obtain more complete cost information. Unlike *Hyster*, there is no information on the record that prompts the Department to make further inquiry. *Id*. at 187. In addition, to support its position that TAL deals with its suppliers at arm's length and, therefore, that the amount for the relevant input ''fairly reflect[s] the amount[s] annually reflected in sales in the market under consideration of merchandise under consideration,'' TAL provided internal documents that evidence competitive bidding practices on the part of its related and unrelated suppliers (*see* Toyota Submission, March 29, 1996). The documents establish that Toyota selects its suppliers using a competitive bidding process and that Toyota is not averse to switching from a related supplier to an unrelated supplier based on price. This is further evidence that Toyota deals with suppliers, both related and unrelated, at arm's length. Therefore, we are satisfied that the information on inputs Toyota provided supports its claim that it deals with related suppliers on an arm's-length basis.

Finally, we agree with Toyota that the *Minivans* memorandum petitioners cite is not relevant to this proceeding since its observations are general in nature with respect to the Keiretsu and because it provides no specific information concerning the relevant companies. The record in this review does not suggest that we draw any conclusions based on such observations.

Comment 4

Petitioners claim that the Department should not include the interest income which TMCC, a separately incorporated U.S. affiliate of Toyota Motor Sales, U.S.A., Inc. (TMS), received for loans it made to dealers that purchased Toyota forklift trucks as an offset to the credit expense TMS incurred in selling trucks in the United States. Petitioners argue that the loan a customer obtains constitutes a separate transaction from the negotiation process related to the sale of a forklift truck and, therefore, under the express terms of the statute and the Department's longstanding practice, income earned or expenses incurred that are not related to the sales-negotiation process cannot be taken into consideration in the dumping analysis.

Petitioners provide a number of examples in Toyota's questionnaire response to support their position that payment terms are separate and have no impact on the sales-negotiation process between TMS and the dealer. Petitioners also refer to certain business-proprietary passages from TMS's financial statements which, they argue, conflict with Toyota's position that TMCC simply operates as an arm of TMS. Petitioners assert that the notes to the financial statements raise serious questions as to the accuracy of Toyota's calculation of the expense, given the possibility of prepayments and credit losses which may not have been factored into its calculations.

Toyota responds, first, that it is the Department's longstanding practice to include credit revenues and to deduct credit expenses in its calculation of exporter's sales price (ESP). Second, Toyota argues that it is nonsensical to claim that financing does not affect the selling price of a truck because the customer pays a price that includes the credit revenue TMCC earns. Toyota points to the record evidence that, in the relevant transactions, TMCC receives the payment from the first unrelated customer, which is a price that includes credit revenue, and TMS receives only an intra-party transfer from TMCC, a payment that cannot serve as the basis for ESP under section 772(c) of the Act. Toyota states that the ''separate nature'' of the financing transaction is belied by the facts in Toyota's questionnaire response.

Toyota maintains that it is irrelevant that TMCC is separately incorporated and uses its income for various purposes and, therefore, the Department's determination to treat TMCC and TMS as a single entity was correct. Toyota further maintains that petitioners' argument that TMS and TMCC are ''separate legal entities'' is contradicted by the reality of the relationship, given that they are 100-percent-affiliated entities, share a common address, and share certain operational structures. Toyota also claims its method of applying assets and income has no relevance to whether credit revenue Toyota received is properly part of USP. Toyota adds, in conclusion, that petitioners' speculation that Toyota's credit revenue might not be accurate, based on broad statements in TMCC's financial statements, is unfounded.

Department's Position

We disagree with petitioners that we should reject Toyota's claimed adjustment for credit revenue. We have addressed this issue in prior reviews and in our October 9, 1996, *Final Results of Redetermination Pursuant To Court Remand, NACCO Materials Handling Group, Inc.,* v. *United States,* Slip Op. 96–99 (June 18, 1996) (*NACCO*), which we have put on the record of this review.

In *NACCO,* we explained that, in our antidumping analysis, ''we examine thoroughly the corporate structure of respondents in order to capture all expenses and revenues incurred by related companies that pertain to sales of subject merchandise. In [*NACCO*], Toyota's revenue and expense pertain directly to the particular sales in question, whether deemed part of the same transaction or not, and must be included in our dumping analysis.'' *Id.* at 23–24. We further stated that ''[t]he inclusion of TMCC's credit expense and credit revenue in the dumping analysis is not dependent on whether or not ostensibly separate transactions are combined. Such inclusion is required because, otherwise, the Department would be unable to fulfill its statutory mandate to capture all U.S. selling expenses in its analysis, as required by section 772(d) of the Act.'' *Id.* at 26. The essential mechanics of the relevant transactions in this review do not differ materially from those in *NACCO.* Petitioners' arguments concerning the separateness of the transactions and the corporate separateness of the entities are irrelevant, given that ''the expenses and revenues that derive from the financing arrangement are related to the sales in question and are relevant, therefore, to the calculation'' of USP. *Id.* at 31.

References by petitioners to Toyota's description of the process (*i.e.,* where a dealer may decide separately how it will pay, is not obligated to use payment terms offered by TMCC, etc.) do not alter the conclusion that, for purposes of section 772 of the Act, the revenues and expenses pertain directly to the particular sales in question and are appropriately part of our dumping analysis. As we concluded in *NACCO,* ''TMC, TMS, and TMCC together constitute the exporter and have provided financing services in selling the subject merchandise * * *, it is necessary to focus on the expenses that relate to sales of subject merchandise, regardless of which related entity incurs the expenses, in the interest of accuracy and in order to prevent the manipulation of the dumping analysis through shifting expenses to subsidiaries.'' *Id.* at 29. We consider our analysis and conclusions in *NACCO* to be directly relevant to the facts of this review and petitioners have not advanced any argument that would alter this conclusion.

Petitioners' arguments based on portions of TMS' financial statements are also not persuasive. As explained above, arguments concerning the corporate separateness based on certain descriptions of ostensibly independent activities in which the entities engage are not relevant and, therefore, whether TMCC simply operates as an arm of Toyota does not alter our analysis.

Furthermore, petitioners' suggestion that, based on Toyota's financial statements, Toyota's reported credit revenue might not be accurate, either because of the possibility of prepayment of leases or because Toyota might not have accounted for credit losses, constitutes unfounded speculation. Moreover, this speculation is irrelevant to petitioners' position that credit revenue should not be recognized because the transactions are separate. Nonetheless, with regard to whether it factored credit losses into its calculations, Toyota stated for the record that it had done so. *See* February 8, 1996 Toyota submission at 4: correction submitted March 19, 1996 at 2.

Finally, nothing in the record contradicts Toyota's statement that prepayments are not relevant to forklift financing. Toyota has stated that ''the referenced comment in Toyota's financial statements applies primarily to automobile installment contracts and leases, and not to forklift leases, which are rarely paid off early.'' *Id.* This explanation supports our conclusion to accept Toyota's claimed adjustment for credit revenue.

Comment 5

Petitioners claim that the payment terms for loans and leases can range from one to five years and thus constitute long-term, not short-term, financing. Therefore, petitioners contend, the Department should consider the credit expense Toyota incurred as long-term debt and should not base the calculation on the short-term borrowing rate Toyota reported. Petitioners argue that, in the absence of information from Toyota on long-term interest rates, the Department should rely on BIA.

Toyota argues that the Department has an established practice of using short-term interest rates to calculate credit expense and believes that the Department should adhere to this practice.

Department's Position

Maintaining our approach is reasonable and we have not altered our practice of using a company's short-term borrowing rate to calculate imputed credit expense. The Department's position is buttressed by the fact that ''TMCC's issuance of short-term commercial paper contributes to the pool of funds used to finance all transactions, regardless of credit term'' and that ''there are [very few] occasions in which reported credit terms exceed one year.'' *See* Toyota's Submission, March 6, 1996, at 8–9. Therefore, we have not adjusted Toyota's reported credit expenses by using a long-term interest rate as petitioners propose.

Comment 6

Petitioners maintain that it is the Department's consistent practice to use the date of the final results as the date

of payment for U.S. sales where there is no reported date of payment (*citing Certain Stainless Steel Wire Rods from France; Final Results of Antidumping Duty Administrative Review* (September 3, 1996)). Petitioners suggest that, whenever Toyota has reported a payment date of May 31, 1995, the Department should instead use the date of the final results to calculate Toyota's credit expense.

Toyota explains that, for certain U.S. sales for which it had not yet received payment by the time it was preparing its questionnaire for filing on August 21, 1995, it reported a payment date of May 31, 1995, which was the date Toyota was using as the closing date for the data to include in the questionnaire response. Toyota asserts that the relevant transactions consist of sales with extended payment terms that include credit revenue. Toyota argues that, if the Department changes the reported date of payment to the date of the final results to recalculate the credit expense, the Department would likewise have to revise the calculation of credit revenue. Toyota contends that, because credit revenue is not calculated but is based on actual payments received, Toyota would have to submit these amounts to the Department. Toyota states that, although it has no objection in principle to revising both credit expense and revenue (given that Toyota would gain more in credit revenue than it loses in credit expense), due to the complications of resubmitting new information at this late stage of review, the company requests that the Department maintain the current ''default'' payment date.

Department's Position

Use of the date of the final results to calculate credit expense and credit revenue for those sales for which payment has not yet been received is not appropriate because there is no evidence to suggest that this data will provide greater accuracy in the calculation of either credit expense or credit revenue. Due to the nature of the credit expense and credit revenue at issue, it is not possible to derive exact expense and revenue amounts for certain transactions within the time permitted for responding to our information requests. In addition, because Toyota calculated its credit expense and credit revenue using the same period, any adjustment to one will require a corresponding adjustment to the other. Accordingly, we have not adopted petitioners' proposal for the final results.

Comment 7

Petitioners claim that Toyota never stated for the record that all of its U.S. technical-services expenses were actually indirect in nature. Petitioners claim that Toyota reported the expenses as indirect expenses because Toyota was unable to segregate them from other expenses and petitioners argue that Toyota cannot be allowed to benefit from its alleged inability to isolate these expenses. Petitioners assert that Toyota bears the burden of demonstrating that these expenses are indirect pursuant to 19 CFR 353.54 and argue that the Department should treat the expenses as direct selling expenses.

Toyota disputes petitioners' assertion that it classified technical-service expenses as ''indirect'' because the expenses could not be separately quantified. Toyota asserts that the record is clear that these expenses are all fixed and do not relate to specific sales.

Department's Position

In Toyota's initial questionnaire response, the company reported that its ''[t]echnical services in the United States were allocated and included in selling expenses.'' Toyota also explained that ''[t]hese are not recorded separately in TMS's records, and, therefore, cannot be isolated.'' August 21, 1995 Questionnaire Response at VIII–43. Furthermore, responding to a comment made by petitioners earlier in this review, Toyota stated that ''these expenses are indirectly related to the sales under review, both in the United States and Japan.'' Toyota Submission, February 8, 1996 at 6. Based on the record of this review, we find no reason to dispute Toyota's characterization of its reported technical-service expenses as indirect. The fact that Toyota is unable to break out a particular expense does not suggest that this characterization is inaccurate. Accordingly, we have maintained our treatment of these expenses as indirect selling expenses in the final results.

Comment 8

Petitioners maintain that the Department's treatment of Toyota's U.S. servicing commissions as indirect selling expenses is not consistent with the statute or with the Department's practice in the 1987–89 administrative review. Petitioners contend that these expenses are in fact value-added expenses. Petitioners state that section 772 of the Act provides that the Department will derive the ESP by reducing the USP by the cost of any further manufacture or assembly, but that section 772 does not provide that U.S. value-added expenses be included in the pool of U.S. indirect selling expenses which, in turn, establishes the limit of the ESP offset. Petitioners claim further that, in the 1987–89 review, the Department included Toyota's servicing-commission payments in U.S. value-added costs. Petitioners note that, in that review, the Department determined that Toyota's servicing ''commissions'' were payments to a third party, the dealer, and considered them as a cost of further manufacturing because the expenses involved preparing, servicing, and delivering a forklift truck to the customer, all of which, petitioners contend, are operations that add value to the forklift. Petitioners further note that, in the 1994–95 preliminary results of review, the Department deducted further-manufacturing costs to determine CEP for sales that involved installation of accessories by an affiliate of TMC.

Toyota responds that these commissions are different from a direct payment to subcontracted value-added activities. Toyota asserts that the law and regulations describe how commissions are to be treated and that commissions are always paid to third parties to compensate for some service or activity. Toyota argues that the fact that some of these activities may involve certain servicing obligations does not render them value-added expenses.

Department's Position

Petitioners inappropriately cite the record of the 1994–95 administrative review of this order to establish the nature of these commissions and for other purposes. Based on the record of the 1993–94 period we do not consider these payments to be for specific further-manufacturing activity. Based on Toyota's description of the purpose of these payments, while they may potentially involve such activity or obligations, they are more akin to payments that we normally treat as commissions. In its sales questionnaire response Toyota stated that these ''commissions are paid to unrelated authorized forklift dealers for National Account transactions in their territories * * *.'' August 21, 1995 Questionnaire Response at VII–40. Toyota's description of these payments does not indicate that they are for further-manufacturing activities but rather are primarily intended to compensate dealers for servicing obligations they may be called upon to provide with regard to sales to National Accounts.

While we may have characterized these payments as further-manufacturing expenses in a prior

review, based on the record of this review, we believe these payments are more appropriately categorized as commissions. We have previously considered similar payments for servicing obligations to be commissions. In *TRBs* at 57638, respondent ''explained in its response that, as a means of compensating [its U.S. affiliate] for expenses it incurred with respect to services it provided for certain of [respondent's] purchase price sales, [respondent] made 'commission' payments to [its U.S. affiliate].'' While the ''commission'' concerned payments to a related party on purchase price sales that were ultimately determined not to have been at arm's length, the case stands for the proposition that the Department will consider such payments to be commissions.

There is nothing on the record, and petitioners cite to nothing, to support the position that these commissions were related directly to specific further-manufacturing activities. Therefore, for purposes of the final results, we have maintained our treatment of Toyota's servicing commissions as ''commissions.''

Comment 9

Petitioners note that, in its supplemental questionnaire response, Toyota informed the Department that it miscalculated inland freight and proposed an alternate methodology to calculate the freight cost on the basis of units shipped rather than on the basis of weight. Petitioners assert that such a methodology is improper because it understates the amount of inland-freight expense for heavier trucks. Petitioners propose an alternate methodology using the total weight of individual trucks and the freight factor Toyota provided in its January 16, 1996 Supplemental Questionnaire Response at Supp. 39–40.

Toyota responds that its original yen/kg inland freight factor is incorrect and that any use of the factor would be incorrect. Toyota states that, contrary to its initial belief, there is no way to calculate a yen/kg inland freight factor because its records only permit the calculation of a per-unit amount for inland freight based on the total units shipped and the total payments made. Toyota asserts that this is an accurate way of allocating the expense because Toyota is charged by the truckload regardless of the number of trucks shipped.

Department's Position

Petitioners' proposed methodology would be based on a freight factor that we determined was flawed. Toyota apprised the Department of this error in its supplemental questionnaire response and calculated a per-unit expense by taking the total expense for the POR and allocating it over the total units it shipped.

This methodology is the most feasible manner in which Toyota can report this expense based on its records, which only permit the calculation of per-unit amounts using the total units shipped and total payments made. Further, we consider this to be an accurate and reasonable method of allocating the expense, given that Toyota is charged by the truckload, not by weight. Accordingly, we have accepted Toyota's methodology for the final results.

Comment 10

Petitioners maintain that the Department should use Toyota's revised data on the home market truck-replacement incentive for the final results.

Toyota agrees with petitioners that the Department should use the revised data for the final results.

Department's Position

We have incorporated Toyota's revised truck-replacement incentive data into the final margin analysis.

Comment 11

Petitioners state that the Department has provided no justification for a departure from its standard practice for determining whether transactions with affiliated parties are at arm's length based on its 99.5 percent test. Petitioners claim that they performed an affiliated-party test and, given that the evidence of record indicates that Toyota's prices to its affiliated dealers are not at arm's length, the Department must require Toyota to submit complete home market sales data.

Petitioners note that the Department confirmed at verification in the 1994–95 review that TMC's price list makes no distinction between prices charged to affiliated and unaffiliated dealers, but they argue that price lists alone cannot determine where sales are at because certain affiliated dealers might receive higher rebates, better payment terms, or any other number of benefits that result in a lower net price than that which unaffiliated dealers pay.

Toyota responds that the Department should not require Toyota to submit sales information on sales by affiliated dealers to unrelated end-users because all of its sales are at arm's length. Toyota adds that petitioners' own analysis demonstrates that sales to affiliated dealers are at arm's length, since this analysis reveals that affiliated dealers paid prices slightly above and slightly below the average price to unaffiliated dealers. Toyota states that this very narrow range of deviation from the average does not suggest that prices to affiliated dealers are not at arm's length and adds that the small deviation is created solely by a deficiency in petitioners' method of analysis, whereby petitioners adjusted the prices by the costs of the attachments and options. Toyota provides three examples indicating that differences in prices are attributable to differences in the number of options/attachments, credits for removal of certain equipment, and differences in the types of attachments. Toyota states that petitioners wrongly tried to compensate for the different attachments through cost adjustments and that petitioners should have used the prices for the attachments which the Department verified, prices which were identical to affiliated and unaffiliated dealers. Toyota states that the Department has recognized in each of its prior reviews that Toyota's sales are all at arm's length and neither Toyota's business practices nor the law have changed such that there is no basis for the Department to alter its analysis for this review.

Department's Position

During the period of review, Toyota's sales prices to affiliated and unaffiliated dealers in the home market, for the basic truck and parts, were based on published price lists. *See* Toyota's August 21, 1995 Section VI Response, at VI–9. This is the same situation that prevailed during the 1994–95 period of review. Petitioners refer to our verification report in the 1994–95 review wherein we noted that there was no deviation from the price lists for sales to affiliated or unaffiliated dealers for either the basic truck or parts. Similarly, the information submitted in this review indicates that Toyota sold to both affiliated and unaffiliated dealers in the home market exclusively from its published price lists.

In addition, while petitioners claim that the arm's-length test they conducted appears to indicate that Toyota's sales to affiliated dealers fail our 99.5-percent arm's-length test, we note that, due to the unique nature of this product, where differences between products beyond the basic truck (options, attachments, etc.) can be significant and where these differences are not always individually distinguished in the submitted data, an arm's-length test is not always feasible. Petitioners' methodology in their arm's-length test for calculating average variances for options does not adequately account for all such

differences. Therefore, based on the fact that both affiliated and unaffiliated dealers purchased trucks and parts based on the same price lists, we have determined that Toyota's sales to affiliated dealers in the home market form a proper basis for consideration and the calculation of foreign market value (FMV).

Comment 12

Petitioners claim that, for those comparison matches involving different levels of trade, the Department must make a level-of-trade adjustment. For U.S. sales, petitioners identify three levels of trade: (1) sales from TMS to unrelated dealers who then sold to end-users, (2) sales from TMS to National Accounts, and (3) sales from Toyota Lift of Los Angeles (TLA) to end users. In the home market, petitioners identify one level: sales from TMC to related and unrelated dealers who then sold to end-users. Petitioners assert that the law requires that, if sales comparisons cannot be made at the same level of trade, the Department will make appropriate adjustments for differences affecting price comparability (*citing* 19 CFR 353.58 and, *inter alia, Certain Cut-to-Length Carbon Steel Plate from Finland; Final Results of Antidumping Duty Administrative Review*, 61 FR 2792, 2796 (January 29, 1996)). Petitioners state that the Department's practice is to examine whether sales are made at the same position in the chain of distribution and to examine the distinct functions and selling services in each market to ensure that it is comparing sales at the same level. Petitioners maintain that differences in the class of customer in the U.S. and home markets indicate that sales are made at different levels of trade and that the financing arrangements provided in the United States create an important distinction between the functions performed in the home market. Petitioners note that price differentials between the United States and the home market can be directly attributable to income received for special financing arrangements provided on certain U.S. sales. Petitioners argue that Toyota should be required to report home market sales by its related dealers to end-users, which could then be compared to U.S. sales to end-users at the same level of trade. Otherwise, petitioners argue, the Department must make a level-of-trade adjustment. Petitioners suggest that the most practical method with respect to the U.S. financing arrangements is to make an upward adjustment to home market price for the interest income earned on sales in the United States.

Toyota responds that its home market sales to related and unrelated dealers are made at arm's length and, further, there is no reason to examine its retail sales nor to make a level-of-trade adjustment. Toyota asserts that it is not relevant that Toyota makes sales through TLA and to National Account Customers for several reasons. First, Toyota states, if all of its home market sales are arm's length, there is no need for or use served by downstream sales. Second, Toyota contends, the level of trade of sales by TLA and by TMS to National Accounts, after all mandatory adjustments have been made for U.S. selling expenses, is at a minimally advanced level of trade and, therefore, under no circumstances should such adjusted sales be compared to retail sales (end-user) in Japan. Third, Toyota argues, the adjustments to USP and FMV eliminate any need to make an adjustment given that the differences in financing arrangements are differences in circumstances of sale that relate to extending credit and do not result from differences in levels of trade. Toyota notes that, while it offers credit options to U.S. customers other than dealers, such options represent differences in how Toyota chooses to extend credit in the U.S. market and not differences in the level of trade. Toyota concludes that the adjustments the Department makes to U.S. and home market prices to take into account imputed credit expenses and revenue fully compensate for these differences in circumstances of sales and that once made, making a further level-of-trade adjustment would be inappropriate.

Department's Position

We have not made an upward level-of-trade (LOT) adjustment to FMV, as recommended by petitioners. Further, we have determined that Toyota's home market sales constitute a single level of trade involving sales to both related and unrelated customers (*see, generally,* Comment 11 regarding the arm's length nature of home market sales to related parties). Although petitioner contends that financing activities are a determinative factor in identifying differences in LOT, the financing activities of an entity involved in the production and/or sale of subject merchandise is not a function which in and of itself determines whether differences in levels of trade exist. In order to determine whether there exist differences in LOT, there must be record evidence demonstrating such differences.

Petitioners have not provided evidence that differences in LOT exist between the U.S. and home markets. Instead, petitioners have merely made allegations that differences in LOT exist which can be attributed to financing arrangements. However, prior to the amended Tariff Act of 1930, which became effective January 1, 1995, our policy was to determine, based on the reported functions, whether the respondent sells to ''distinct, discernable levels of trade.'' *See Policy Bulletin 92.1*, July 29, 1992, at 2. In accordance with our policy, for the purpose of this review, we do not find that Toyota sells to distinct, discernible levels of trade based on discernible functions. Moreover, while petitioners claim that there are three levels of trade in the United States, they did not show that there was a correlation between price and selling expenses on one hand and the alleged levels of trade on the other, although they had access to the same information as the Department. Accordingly, we have accepted the respondent's reporting for purposes of level of trade and have compared U.S. sales to foreign market value without any adjustment for alleged differences in level of trade.

Comment 13

Petitioners argue that the Department's verification report for the 1994–95 review period and Toyota's supplemental questionnaire response in this review indicate that Toyota misreported the date of sale for home market sales. Petitioners note that Toyota explained in its supplemental questionnaire response that a dealer may modify an order by changing the configuration of the truck between 10 and 15 percent of the time but that the Department determined at verification in the 1994–95 review the frequency instead ranged from 4.3 to 7.5 percent. Petitioners assert that the low frequency of changes fails to justify Toyota's decision to base date of sale on date of shipment when the majority of sales are established on the order date; further, petitioners contend, the changes to certain attachments do not alter the essential terms of sale between Toyota and its customer. Petitioners state that it is likely there would be a set price for the particular attachments or changes in configuration of the truck and, although a purchaser may request different attachments, the basic truck and negotiated price would not be altered after the order is placed. Therefore, petitioners argue that Toyota should have used the order date for matching purposes.

Toyota responds that the date the basic terms of the contract are agreed to is the date of shipment, which is generally on or about the date of

invoice. Toyota notes that, under the Department's proposed regulations, the invoice date is considered the date of sale. Toyota contends that customers can request modifications in payment terms, configuration, and price up to the date of shipment (citing Toyota's Supplemental Questionnaire Response January 16, 1996 at Supp. 10–11). Toyota states further that the date of order is not a date of sale in Toyota's records, is not significant enough to record on a systematic basis and, even where recorded, the order may or may not describe the merchandise actually shipped. Therefore, Toyota notes, the order date is not a date that permits the verification of total sales quantities. Toyota further notes that this is not a case in which the date of sale is substantively significant to the final results, given that Toyota's sales are relatively even over the period and there are no factors such as hyperinflation that would cause the date of sale to affect the analysis. Consequently, Toyota maintains, a different date of sale would shift the universe of reported sales slightly and not change the outcome, particularly since the Department plans to assess duties on all trucks entered during the POR.

Department's Position

The date of shipment is the appropriate date of sale for home market sales in this case for the following reasons. First, the reported date of sale, which is based on shipment date, closely corresponds to invoice date in this case and is in accord with our current practice and with the date-of-sale methodology in our proposed regulations, where invoice date is considered the appropriate date of sale. Second, the potential for configurations and prices to change for the reported sales supports a sale date based on the shipment date. Information on the record indicates that these basic sales terms can, and in fact do, change up to the date of shipment.

Third, the record indicates that Toyota records the date of shipment as the date of sale for financial reporting and internal purposes and it records the sales transaction as complete upon shipment (*e.g.*, payment is due from a dealer based on this date—*see, e.g.*, the August 21, 1995 Questionnaire Response at VI–6 Terms of Payment).

Therefore, we have not changed our treatment of Toyota's reported date of sale for the final results.

Comment 14

Petitioners argue that the Department failed to include Toyota's reported inventory-carrying expense in the calculation of U.S. indirect expenses and, therefore, the Department failed to deduct the expense from USP. Citing section 772(d) of the Act, petitioners maintain that the Department is obligated to reduce reported USPs for inventory-carrying expenses incurred for sales in the United States and that exclusion of the expense constitutes a clerical error that the Department should correct for the final results.

Toyota responds that the Department properly categorized its inventory-carrying costs as general export expenses attributable to the sales to the affiliated purchaser which should not be deducted from ESP. Toyota contends that, if the Department deducts these costs from USP for the final margin analysis, then it must include these expenses in the ESP-offset cap and make a corresponding adjustment to FMV for home market inventory-carrying costs.

Department's Position

In accordance with section 772(e)(2) of the Act, we adjust ESP downward for ''* * * expenses generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise * * *.'' These expenses include inventory-carrying costs incurred in connection with exports of the subject merchandise to the United States. We have therefore made a deduction for such costs from Toyota's reported U.S. prices. We also agree with Toyota that we must include the expense in the ESP-offset cap and have done so for the final results.

Comment 15

Petitioners claim that the Department uniformly reduced Toyota's home market sales prices by reported inland-freight expenses, which is inappropriate because Toyota's reported home market prices were exclusive of inland freight for certain sales. Petitioners assert that deducting these amounts resulted in an understatement of FMV for those sales for which the price did not include delivery.

Toyota responds that it reported inland-freight amounts only where the prices were inclusive of inland freight (citing Toyota's Questionnaire Response at VI–13). Toyota asserts that the Department's Preliminary Results accomplish exactly what petitioners claim is proper.

Department's Position

Toyota's reported home market gross unit price ''includes inland freight only where the sales term is c.&f.'' August 21, 1995 Questionnaire Response, Section VI at VI–10. In accordance with the petitioners' suggestion, we have ensured that our calculations reflect the information Toyota provided in its response concerning this expense.

Comment 16

Petitioners contend that, because the Department reset the quantity of sales for each sales transaction in Toyota's U.S. sales database equivalent to one, Toyota's total U.S. sales quantity was understated. Petitioners argue that the Department should modify the computer language in the margin calculation program to reflect any reported sales transactions which reported a quantity greater than one.

Toyota responds that it is clear from the unique model number/serial number combination, unique invoice number and other reported information for the transaction that the only sale in question consists of one forklift truck.

Department's Position

While the quantity field mistakenly indicates a quantity of greater than one for the transaction, the associated data (*i.e.*, serial number) indicate the sale of one forklift truck. Therefore, we have not made the change petitioners recommend.

Comment 17

Petitioners assert that the Department should change certain computer programming language with respect to Toyota's movement expenses and U.S. indirect selling expenses for errors associated with brokerage expenses, home market inland freight and Toyota's reported indirect expenses incurred by TMCC.

Toyota responds that the Department should correct any programming errors consistent with Toyota's positions in its case and rebuttal briefs.

Department's Position

We have corrected the following errors for the final results. We have included brokerage in Toyota's U.S. movement expenses, corrected the duplication of the inventory-carrying-cost variable from the relevant composite variable (*see also* Comment 14 above) and excluded the inland insurance from the calculation of net price. With regard to Toyota's indirect expenses incurred by TMCC, we have reclassified the expenses as indirect (*see* our response to Toyota Comment 5 above) and recognize that they are not properly categorized as credit revenue.

Final Results of Review

After consideration of the comments received, we determine that the following weighted-average margins

exist for the period June 1, 1993, through May 31, 1994:

Manufacturer/exporter	Margin (percent)
Toyota	31.58
Nissan	[1]7.36
Toyo	[1]4.48

([1]) No shipments or sales subject to this review. Rate is from the last relevant segment of the proceeding in which the firm had shipments/sales.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We will calculate importer-specific *ad valorem* duty-assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties as adjusted by the non-subject trucks (see our response to Toyota's comment 6). This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between foreign market value and United States price, by the total United States price value of the sales compared and adjusting the result by the average difference between United States price and customs value for all merchandise examined during the POR.) While the Department is aware that the entered value of sales during the POR is not necessarily equal to the entered value of entries during the POR, use of entered value of sales as the basis of the assessment rate permits the Department to collect a reasonable approximation of the antidumping duties which would have been determined if the Department had reviewed those sales of merchandise actually entered during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review.

Furthermore, the deposit requirements made effective by the final results of the 1994–95 administrative review of this order shall continue to be effective upon publication of this notice of final results of administrative review for all shipments of forklift trucks entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act (*see Certain Internal-Combustion Industrial Forklift Trucks From Japan; Final Results of Antidumping Duty Administrative Review,* 62 FR 5592 (February 6, 1997). Those deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply is a violation of the APO.

This administrative review and this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 (1996).

Dated: June 19, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–16681 Filed 6–24–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Kin-Tek Laboratories, Inc., Patent Licenses

AGENCY: National Institute of Standards and Technology Commerce.

ACTION: Notice of prospective grant of Exclusive Patent License.

SUMMARY: This is a notice in accordance with 35 USC 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institute of Standards and Technology (''NIST''), U.S. Department of Commerce, is contemplating the grant of a field of use exclusive license in the United States to practice the invention embodied in U.S. Patent Application Serial Number 08/686,462, titled, ''Sample Storage Devices And Methods'' to Kin-Tek Laboratories, Inc., having a place of business in LaMarque, Texas.

FOR FURTHER INFORMATION CONTACT: Bruce E. Mattson, National Institute of Standards and Technology, Industrial Partnerships Program, Building 820, Room 213, Gaithersburg, MD 20899.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NIST receives written evidence and argument which establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

U.S. Patent Application Serial Number 08/686,462 is a permeation tube sealed internally in a commercially available automatic sampler vial which provides a simple and convenient method of preparing, using, and storing long-term samples such as retention index standards. The approach is especially suited to the handling of volatile organic compounds (VOCs). A sample can be dispensed at very low concentration, even at infinite dilution.

NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') to perform further research on the invention for purposes of commercialization. The CRADA may be conducted by NIST without any additional charge to any party that licenses the patent. NIST may grant the licensee an option to negotiate for royalty-free exclusive licenses to any jointly owned inventions which arise from the CRADA as well as an option to negotiate for exclusive royalty-bearing licenses for NIST employee inventions which arise from the CRADA.

The availability of the invention for licensing was published in the Federal Register, Vol. 62, No. 54 (March 20, 1997). A copy of the patent application may be obtained from NIST at the foregoing address.

Dated: June 18, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–16577 Filed 6–24–97; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061897B]

Marine Mammals; Scientific Research Permit No. 849–1341

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Oklahoma Museum of Natural History, The University of Oklahoma, 111 E. Chesapeake Street, Norman, Oklahoma 73019 (Principal Investigator**:** Dr. Michael A. Mares; Co-investigators**:** Ms. Holly Edwards and Dr. Gary D. Schnell) has been issued a permit to import marine mammal specimens for scientific purposes.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298 (508/281–9250).

SUPPLEMENTARY INFORMATION: On April 7, 1997, notice was published in the **Federal Register** (62 FR 16562) that a request for a scientific research permit to import two skeleton remains of a South American dolphin (*Sotalia fluviatilis*) from Nicaragua had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq*.) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: June 19, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–16618 Filed 6–24–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

June 20, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: June 26, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for carryover, carryforward used and swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 64505, published on December 5, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 20, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on June 26, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
200	740,281 kilograms.
219	9,392,845 square meters.
225	6,673,333 square meters.
300/301	3,674,008 kilograms.
313	16,230,347 square meters.
314	56,082,443 square meters.
315	26,446,169 square meters.
317/617/326	24,191,961 square meters of which not more than 3,915,378 square meters shall be in Category 326.
331/631	1,997,346 dozen pairs.
334/335	233,027 dozen.
336/636	596,981 dozen.
338/339	1,099,917 dozen.
340/640	1,536,522 dozen.
341	937,513 dozen.
342/642	366,881 dozen.
345	431,239 dozen.
347/348	1,563,517 dozen.
350/650	160,802 dozen.
351/651	461,948 dozen.
359–C/659–C [2]	1,286,849 kilograms.
359–S/659–S [3]	1,482,962 kilograms.
360	1,319,831 numbers.
361	1,294,117 numbers.
369–S [4]	881,118 kilograms.
433	13,144 dozen.
443	93,310 numbers.
445/446	58,572 dozen.
447	18,383 dozen.
448	22,981 dozen.
604–A [5]	675,116 kilograms.
611–O [6]	4,280,000 square meters.
613/614/615	23,136,219 square meters.
618–O [7]	5,181,851 square meters.
619/620	8,582,940 square meters.
625/626/627/628/629–O [8].	23,780,224 square meters.
634/635	284,276 dozen.
638/639	1,486,705 dozen.
641	2,321,574 dozen.
643	329,959 numbers.
644	461,941 numbers.
645/646	780,440 dozen.
647/648	3,378,896 dozen.
847	408,513 dozen.

Category	Adjusted twelve-month limit [1]
Group II	
201, 218, 220, 222–224, 226, 227, 229, 237, 239, 330, 332, 333, 349, 352–354, 359–O [9], 362, 363, 369–O [10], 400, 410, 414, 431, 432, 434, 435, 436, 438, 439, 440, 442, 444, 459, 464, 465, 469, 603, 604–O [11], 606, 607, 621, 622, 624, 630, 632, 633, 649, 652–654, 659–O [12], 665, 666, 669–O [13], 670–O [14], 831–836, 838, 839, 840, 842–846, 850–852, 858 and 859, as a group.	96,962,994 square meters equivalent.
Subgroup in Group II	
400, 410, 414, 431, 432, 434, 435, 436, 438, 439, 440, 442, 444, 459, 464, 465 and 469, as a group.	3,294,114 square meters equivalent.
In Group II subgroup 435	51,708 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 359–S: only HTS numbers 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020; Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[4] Category 369–S: only HTS number 6307.10.2005.

[5] Category 604–A: only HTS number 5509.32.0000.

[6] Category 611–O: all HTS numbers except 5516.14.0005, 5516.14.0025 and 5516.14.0085.

[7] Category 618–O: all HTS numbers except 5408.24.9010 and 5408.24.9040.

[8] Category 625/626/627/628; Category 629–O: all HTS numbers except 5408.34.9085 and 5516.24.0085.

[9] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359–C); 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020 (Category 359–S).

[10] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S).

[11] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A).

[12] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[13] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000 (Category 669–P).

[14] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–16679 Filed 6–24–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Department of Defense, Under Secretary of Defense (Acquisition & Technology) Deputy Under Secretary of Defense (Logistics/Electronic Commerce Integration Organization).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Deputy Under Secretary of Defense (Logistics/Electronic Commerce Integration Organization) announces the proposed public information collection in order to implement the Central Contractor Registration, an interactive World Wide Web application, and seeks public comment on the provisions thereof. Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 25, 1997.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Deputy Under Secretary of Defense (Logistics/Electronic Commerce Integration Organization), 5109 Leesburg Pike, Sky 6 Suite 701, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT: To request further information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Ms. Karen Hembree, (703) 681–0137.

Title, Associated Form, and OMB Number: Central Contractor Registration, 0704–XXXX.

Needs and uses: The information collection requirement provides for a single face to industry through a single point of entry for contractors wishing to do business with the Department of Defense. This central registry will be used to provide contractor financial and business information to automated system used by the contracting and business communities. As activities transition to use of this registry, it will eliminate the need to submit Solicitation Mailing List Applications (SF129s) and electronic funds transfer information repeatedly to multiple DoD activities. Registration is available via the world wide web (http://www.acq.osd.mil/ec) and through DoD certified Value Added Networks (VANs). A registration workbook is available from this site. Review and completion of the workbook before attempting to register will ensure that all necessary information is available. Registration will generally be activated within seven to ten days of submission. Upon activation, contractors will receive written notice followed shortly thereafter by a Trading Partner Identification Number (TPIN). Contractors may also use the web site to inquire regarding registration status. Contractors who do not have access to the world wide web can contact their regional Electronic Commerce Resource Center or Procurement Technical Assistance Center for assistance. A list

can be obtained by calling the Electronic Commerce Information Center at 1–800–334–3414, 8 a.m. to 8 p.m. Eastern time, Monday through Friday, except federal holidays.

Affected Public: Business or other for-profit; not-for-profit institutions; federal government.

Annual Burden Hours: 1 hour per respondent.

Number of Respondents: 300,000.

Responses to Respondent: 1.

Average Burden Per Response: 1 hour.

Frequency: Government contractors, estimated at 300,000 currently, will register once initially. On an annual basis the contractor will be required to certify their registration information in CCR.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are contractors wishing to do business with the Department of Defense who provide numerous products and services. These vendors are currently required to submit a completed Solicitation Mailing List Application (SF129) to each buying activity with which they wish to do business. In addition, a significant percentage of this data is required in solicitation responses as certification and representation of the contractors size and status. Each completed form is entered into a local data base and the hard copy SF129 is manually filed. The current redundant manual process is labor intensive resulting in high error rate and inconsistent data. A central registration system eliminates the redundancy of the governments information as well as the duplication of efforts on the part of the contractor.

Dated: June 19, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–16563 Filed 6–24–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Partnership Council Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense (DoD) announces a meeting of the Defense Partnership Council. Notice of this meeting is required under the Federal Advisory Committee Act. This meeting is open to the public. The topics to be covered include the routine administrative business of the Council an informational briefings on matters related to the DoD civilian workforce.

DATES: The meeting is to be held July 21, 1997, in room 1E801, Conference Room 7, the Pentagon, from 1:00 p.m. until 3:00 p.m. Comments should be received by July 14, 1997, in order to be considered at the July 21 meeting.

ADDRESSES: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comment or recommendations to Mr. Kenneth Oprisko at the address shown below. Seating is limited and available on a first-come, first-serve basis. Individuals wishing to attend who do not possess an appropriate Pentagon building pass should call the below listed telephone number to obtain instructions for entry into the Pentagon. Handicapped individuals wishing to attend should also call the below listed telephone number to obtain appropriate accommodations.

FOR FURTHER INFORMATION CONTACT:

Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Blvd, Suite B–200, Arlington, VA 22209–5144, (703) 696–6301, ext. 704.

Dated: June 19, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–16562 Filed 6–24–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Cost Comparison Studies

The Air Force is conducting the following cost comparison in accordance with OMB Circular A–76, Performance of Commercial Activities.

Installation	State	USAF project title
Maxwell AFB	AL	General Library
Maxwell AFB	AL	Grounds Maintenance
Clear	AK	Power Production
Eielson AFB	AK	Miscellaneous Services
Eielson AFB	AK	Admin Telephone PBX
Elmendorf AFB	AK	Power Production
Elmendorf AFB	AK	Military Family Housing Management
Edwards AFB	CA	Base Supply
Los Angeles AFS	CA	Communication Functions
Los Angeles AFS	CA	Publications Distribution Office
Los Angeles AFS	CA	Education Services
March AFB	CA	Airfield Operations & Weather
March AFB	CA	Transient Aircraft Maintenance
March AFB	CA	Base Operating Support
Onizuka AFS	CA	Utilities Plant
Vandenberg AFB	CA	Base Operating Support
Vandenberg AFB	CA	Structural Maintenance
Buckley ANGB	CO	Airfield Management
Falcon AFB	CO	Communication O&M
Falcon AFB	CO	Utilities Plant
Peterson AFB	CO	Base Operating Support
USAF Academy	CO	Mess Attendants
Eglin AFB	FL	Library
Eglin AFB	FL	Education Services
Eglin AFB	FL	Acquisition Security
Eglin AFB	FL	Civil Engineering
Homestead AFB	FL	Airfield Operations & Weather
Homestead AFB	FL	Base Operating Support
Hurlburt Com Field	FL	Grounds Maintenance

Installation	State	USAF project title
Hurlburt Com Field	FL	Transient Aircraft Maintenance
Patrick AFB	FL	Base Operating Support
Tyndall AFB	FL	BOS & Backshop Aircraft Maintenance
Dobbins AFB	GA	Control Tower Operations
Dobbins AFB	GA	Communication Functions
Dobbins AFB	GA	Weather Services
Dobbins AFB	GA	Base Operating Support
Robins AFB	GA	Audiovisual
Robins AFB	GA	Military Family Housing Maintenance
Robins AFB	GA	Education Services
Ramstein AB	Germany	Mess Attendants
Spangdahlem AB	Germany	Mess Attendants
Hickam AFB	HI	Base Operating Support
Grissom ARB	IN	Airfield Operations & Weather
Grissom ARB	IN	Transient Aircraft Maintenance
Grissom ARB	IN	Base Operating Support
New Orleans NAS	LA	Base Operating Support
Hanscom AFB	MA	Audiovisual
Hanscom AFB	MA	Data Automation
Hanscom AFB	MA	Vehicle O&M
Hanscom AFB	MA	Laboratory Support Services
Hanscom AFB	MA	Communication Functions
Hanscom AFB	MA	Data Processing
Otis ANGB	MA	Transient Aircraft Maintenance
Westover AFB	MA	Control Tower Operations
Westover AFB	MA	Weather Services
Westover AFB	MA	Base Operating Support
Minneapolis/St Paul	MN	Communication Functions
Minneapolis/St Paul	MN	Base Operating Support
Columbus AFB	MS	Base Operating Support
Keesler AFB	MS	Technical Training Center Equip Maintenance
Andrews AFB	MD	Administrative Support
Malmstrom AFB	MT	Base Supply
Multiple Installations	Mult	Technical Training, Electronic Printing Training
McGuire AFB	NJ	Military Family Housing Maintenance
Cannon AFB	NM	Military Family Housing Maintenance
Kirtland AFB	NM	Base Supply
Kirtland AFB	NM	PMEL
Kirtland AFB	NM	Vehicle O&M
Niagara Falls IAP	NY	Weather Services
Niagara Falls IAP	NY	Base Operating Support
Offutt AFB	NE	Heating Systems
Wright Patterson AFB	OH	Base Operating Support
Youngstown Municipal Arpt	OH	Base Operating Support
Tinker AFB	OK	Communication Functions
Greater Pittsburgh Arpt	PA	Base Operating Support
Willow Grove NAS	PA	Base Operating Support
Brooks AFB	TX	Laboratory Support Services
Carswell AFB	TX	Base Operating Support
Lackland AFB	TX	Grounds Maintenance
Lackland AFB	TX	Animal Caretaking
Laughlin AFB	TX	Aircraft Maintenance
Laughlin AFB	TX	Base Communications
Sheppard AFB	TX	Technical Training, Telephone System
Hill AFB	UT	Grounds Maintenance
Hill AFB	UT	Recreational Support
General Mitchell Field	WI	Base Operating Support
F E Warren AFB	WY	Base Supply

Barbara A. Carmichael,

Air Force Federal Register Liaison Officer.

[FR Doc. 97–16596 Filed 6–24–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DOD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Navy proposes to alter a record system in its inventory of system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The action will be effective without further notice on July 25, 1997, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The complete inventory of the Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 13, 1997 to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 19, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05819–3

SYSTEM NAME:

Naval Clemency and Parole Board Files *(September 20, 1993, 58 FR 48868).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'N01000–4.'

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Naval Clemency and Parole Board, 901 M Street, SE, Washington, DC 20374–5023.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Members or former members of the Navy, Marine Corps, or Coast Guard whose cases have been or are being considered by the Naval Clemency and Parole Board.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to entry 'SECNAVINST 5815.3H, Department of the Navy Clemency and Parole Systems'.

* * * * *

N01000–4

SYSTEM NAME:

Naval Clemency and Parole Board Files.

SYSTEM LOCATION:

Naval Clemency and Parole Board, 901 M Street, SE, Washington, DC 20374–5023.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members or former members of the Navy, Marine Corps, or Coast Guard whose cases have been or are being considered by the Naval Clemency and Parole Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file contains individual applications for clemency and/or parole, reports and recommendations thereon indicating progress in confinement or while awaiting completion of appellate review if not confined, or on parole; correspondence between the individual or his counsel and the Naval Clemency and Parole Board or other Navy offices; other correspondence concerning the case; the court-martial order and staff Judge Advocate's review; records of trial; and a summarized record of the proceedings of the Board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 874(a), 952–954; SECNAVINST 5815.3H, Department of the Navy Clemency and Parole Systems; and E.O. 9397 (SSN).

PURPOSE(S):

The file is used in conjunction with periodic review of the member's or former member's case to determine whether or not clemency or parole is warranted. The file is referred to in answering inquiries from the member or former member or their counsel. The file is referred to by the Naval Discharge Review Board and the Board for Correction of Naval Records in conjunction with their subsequent review of applications from members or former members. The file is also used by counsel in connection with representation of members or former members before the Naval Clemency and Parole Board.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computerized data base.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Files are kept within the Naval Clemency and Parole Board administration office. Access during business hours is controlled by Board personnel. The office is locked at the close of business. Computerized data base is password protected.

RETENTION AND DISPOSAL:

Files are transferred to the Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409 one year after discharge of individual from the naval service. Files are destroyed after 25 years after cut-off.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Naval Council of Personnel Boards, 901 M Street, SE, Washington, DC 20374–5023.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Naval Council of Personnel Boards, 901 M Street, SE, Washington, DC 20374–5023.

Requests should contain full name and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director, Naval Council of Personnel Boards, 901 M Street, SE, Washington, DC 20374–5023.

Requests should contain full name and Social Security Number.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information contained in the file is obtained from the member or former

member or from those acting in their behalf, from confinement facilities, from military commands and offices, from personnel service records and medical records, and from civilian law enforcement agencies or individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and 3, (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

[FR Doc. 97–16564 Filed 6–24–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DOD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Navy proposes to alter a record system in its inventory of system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The action will be effective without further notice on July 25, 1997, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The complete inventory of the Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 13, 1997 to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 19, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01640–1

SYSTEM NAME:

Individual Correctional Records *(November 10, 1993, 58 FR 59711).*

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to entry 'Names, addresses, and telephone numbers of victims/witnesses.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to entry '42 U.S.C. 10601 et seq., Victim's Rights and Restitution Act of 1990 as implemented by DoD Instruction 1030.2, Victim and Witness Assistance Procedures.'

PURPOSE(S):

Delete last word in entry and replace with 'parole; and to notify victims/witnesses of crime of release related activities.'

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add new paragraph 'To victims and witnesses of crime for the purpose of notifying them of date of parole or clemency hearing and other release related activities.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Two years after a prisoner is released or transferred from a brig or expiration of parole, prisoner records are transferred to the appropriate Federal Records Center.

Federal Records Center Atlanta, 1557 St. Joseph Avenue, East Point, GA 30344 has records from ashore brigs under the area coordination of the Commander in Chief, U.S. Atlantic Fleet; Commander in Chief, U.S. Naval Forces Europe; Commander, Naval Education and Training, afloat brig on Atlantic Fleet ships, and Navy Consolidated Brig, Charleston.

Federal Records Center Los Angeles, 2400 Avila Road, P.O. Box 6719, Laguna Niegel, CA 92607–6719 has records for ashore brigs under the area consideration of the Commander in Chief, U.S. Pacific Fleet; afloat brigs on Pacific Fleet ships; and Navy Consolidated Brig, Miramar.

Records of prisoners accompany their transfer to other facilities.'

* * * * *

N01640–1

SYSTEM NAME:

Individual Correctional Records.

SYSTEM LOCATION:

United States Navy Brigs and United States Marine Corps Correctional Facilities. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices, and/or may be obtained from the Bureau of Naval Personnel (Pers 84), 2 Navy Annex, Washington, DC 20370–5084.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members confined in a naval facility as a result of or pending trial by courts-martial; military members sentenced to three days bread and water or diminished rations; and military members awarded correctional custody to be served in a correctional custody unit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents related to the administration of individual prisoners in the Department of the Navy confinement and correctional custody facilities - courts martial orders; release orders; confinement orders; medical examiners' reports; requests and receipts for health and comfort supplies; reports and recommendations relative to disciplinary actions; clothing and equipment records; mail and visiting lists and records; personal history records; individual prisoner utilization records; requests for interview; initial interview; spot reports; prisoner identification records; parolee agreements; inspection record of prisoner in segregation; personal funds records; valuables and property record; daily report of prisoners received and released; admission classification summary; social history; clemency recommendations and actions; parole recommendations and actions; restoration recommendations and actions; psychiatric, psychological, and sociological reports; certificate of parole; certificate of release from parole; requests to transfer prisoners; disciplinary action data cards showing name, grade, Social Security Number, sex, education, sentence, offense(s),

sentence computation, organization, ethnic group, discharge awarded, length of unauthorized absence, number and type of prior punishments, length of service, and type release; weekly status report (each member's legal status, offense charged, length of time confined). On tape, the same data as the disciplinary action data card, except name, computation of sentence. Names, addresses, and telephone numbers of victims/witnesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 951; 42 U.S.C. 10601 et seq., Victim's Rights and Restitution Act of 1990 as implemented by DoD Instruction 1030.2, Victim and Witness Assistance Procedures; and E.O. 9397 (SSN).

PURPOSE(S):

To determine initial custody classification; to determine when custody grade change is appropriate; to gauge member's adjustment to confinement or correctional custody; to identify areas of particular concern to prisoners and personnel in correctional custody; to determine work assignment; to determine educational needs; serves as the basis for correctional treatment; serves as a basis for recommendations for clemency, restoration, and parole; and to notify victims/witnesses of crime of release related activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, state, and local law enforcement and investigative agencies for investigation and possible criminal prosecution, civil court actions or regulatory order.

To confinement/correctional system agencies for use in the administration of correctional programs to include custody classification; employment, training and educational assignments; treatment programs; clemency, restoration to duty, and parole actions; verifications concerning military offenders or military criminal records, employment records and social histories.

To victims and witnesses of crime for the purpose of notifying them of date of parole or clemency hearing and other release related activities.

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computerized data base.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Computer data base is password protected.

RETENTION AND DISPOSAL:

Two years after a prisoner is released or transferred from a brig or expiration of parole, prisoner records are transferred to the appropriate Federal Records Center.

Federal Records Center Atlanta, 1557 St. Joseph Avenue, East Point, GA 30344 has records from ashore brigs under the area coordination of the Commander in Chief, U.S. Atlantic Fleet; Commander in Chief, U.S. Naval Forces Europe; Commander, Naval Education and Training, afloat brig on Atlantic Fleet ships, and Navy Consolidated Brig, Charleston.

Federal Records Center Los Angeles, 2400 Avila Road, P.O. Box 6719, Laguna Niegel, CA 92607–6719 has records for ashore brigs under the area consideration of the Commander in Chief, U.S. Pacific Fleet; afloat brigs on Pacific Fleet ships; and Navy Consolidated Brig, Miramar.

Records of prisoners accompany their transfer to other facilities.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Officials: Chief of Naval Personnel (Pers 84), Bureau of Naval Personnel, 2 Navy Annex, Washington, DC 20370–5084, and Commandant of the Marine Corps (Code MHC), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–0001.

Record Holders: United States Navy Brigs and United States Marine Corps Brigs. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices, and/or may be obtained from the Bureau of Naval Personnel (Pers 84), 2 Navy Annex, Washington, DC 20370–5084.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the United States Navy Brig or United States Marine Corps Brigs where incarcerated. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices, and/or may be obtained from the Bureau of Naval Personnel (Pers 84), 2 Navy Annex, Washington, DC 20370–5084.

Requests should include full name and social security number and must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the United States Navy Brig or United States Marine Corps Brigs where incarcerated. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices, and/or may be obtained from the Bureau of Naval Personnel (Pers 84), 2 Navy Annex, Washington, DC 20370–5084.

Requests should include full name and Social Security Number and must be signed by the requesting individual.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Military personnel records; military financial and medical records; military and civilian investigative and law enforcement agencies; courts-martial proceedings; records of non-judicial administrative proceedings; United States military commanders; staff members and cadre supply information relative to service member's conduct or duty performance; and other individuals or organizations which may supply information relevant to the purpose for which this system was designed.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32

CFR part 701, subpart G. For additional information contact the system manager.

[FR Doc. 97–16565 Filed 6–24–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DOD.

ACTION: Notice to add a system of records.

SUMMARY: The Department of the Navy proposes to add one record system to its inventory of system of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The action will be effective without further notice on July 25, 1997, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The complete inventory of the Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 13, 1997 to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 19, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05420–1

SYSTEM NAME:

Field Naval Aviator Evaluation Board (FNAEB).

SYSTEM LOCATION:

Commander, Naval Air Force, U.S. Pacific Fleet, NAS North Island, San Diego, CA 92135–7051.

Commander, Naval Air Force, U.S. Atlantic Fleet, 1279 Franklin Street, Norfolk, VA 23511–2494.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty and reserve Naval Aviators for which a Field Naval Aviator Evaluation Board has been conducted.

CATEGORIES OF RECORDS IN THE SYSTEM:

Field Naval Aviator Evaluation Board (FNAEB) reports, endorsements, witness statements, extracts from medical and personnel records. Data base consists of name, Social Security Number, race, sex, squadron, carrier wing (CVW), type aircraft, total hours, reason for FNAEB, board results, final disposition, probationary terms, and probationary status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; OPNAV Instruction 5420.1, Field Naval Aviator Evaluation Board Procedures; and E.O. 9397 (SSN).

PURPOSE(S):

To maintain a database of all naval aviators who have had a Field Naval Aviator Evaluation Board (FNAEB) conducted and to maintain copies of FNAEB reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

During the processing of the FNAEB, access to the information is limited and records are transferred as 'FOR OFFICIAL USE ONLY.' Files are maintained in file cabinets under the control of authorized personnel during working hours; the office space in which the file cabinets are located is locked outside official working hours. Automated records are password protected.

RETENTION AND DISPOSAL:

Information is retained until no longer needed for research and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy official: Chief of Naval Operations (N88), 2000 Navy Pentagon, Washington, DC 20350–2000.

Record holder: Commander Naval Air Force, U.S. Pacific Fleet, NAS North Island, PO Box 457051, San Diego, CA 92135–7051.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander Naval Air Force, U.S. Pacific Fleet, NAS North Island, PO Box 457051, San Diego, CA 92135–7051.

Request should include full name, Social Security Number and date of Field Naval Aviator Evaluation Board.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander Naval Air Force, U.S. Pacific Fleet, NAS North Island, PO Box 457051, San Diego, CA 92135–7051.

Request should include full name, Social Security Number, and date of Field Naval Aviator Evaluation Board.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual, accident report, training command data, Field Naval Aviator Evaluation Board report.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 97–16566 Filed 6–24–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Management Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 25, 1997.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Resources Management Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 19, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of Postsecondary Education

Title: Guaranty Agency Monthly Claims and Collections Report.

Frequency: Monthly.

Affected Public: Non-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 37.

Burden Hours: 2,220.

Abstract: The ED Form 1189 is used by a guaranty agency to request payments of reinsurance for default, bankruptcy, death, disability claims paid to lenders and for costs incurred for supplemental preclaims assistance, closed school, false certification and lender of last resort and lender referral fee payments. Agencies use the form to make payments owed to ED for collections on defaulted loans.

[FR Doc. 97–16559 Filed 6–24–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Chicago Operations Office; Office of Nuclear Energy, Science and Technology; Notice of Solicitation for Cooperative Agreement/Applications

AGENCY: DOE.

ACTION: Notice of solicitation.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, intends to issue Solicitation No. DE–SC02–98NE21596, for Administrative and Management Services for the Nuclear Engineering /Health Physics Fellowship & Scholarship Program on or about July 18, 1997.

DATES AND ADDRESSES: Applications submitted in response to this notice should be received by August 28, 1997. To obtain a complete solicitation package, please contact Nadine S. Kijak, Chairperson, U.S. Department of Energy, Chicago Operations Office, Acquisition and Assistance Group, 9800 S. Cass Avenue, Argonne, IL 60439 Telephone 630/252–2508.

FOR FURTHER INFORMATION CONTACT: Nadine S. Kijak at 630/252–2508 or by fax at 630/252–2522.

SUPPLEMENTARY INFORMATION:

Program Title: Nuclear Engineering/ Health Physics Fellowship & Scholarship Program.

Solicitation Number: DE–SC02–98NE21596.

Citation of Authority: Pub. L. 95–91.

The U.S. Department of Energy (DOE), Office of Nuclear Energy, Science and Technology, supports graduate fellows and undergraduate scholars as a means of encouraging students to pursue careers in nuclear-related fields. The DOE provides such support to ensure that an adequate supply of highly qualified, well-trained scientific and technical professionals are available to meet current and future research and development needs.

The DOE will solicit applications from nonprofit and not-for-profit organizations with university associations that are experienced in academic interactions and relationships. The applying organizations should have some knowledge and familiarity with the Department's nuclear engineering research and development interests and the historical relationship with the universities involved in nuclear science and engineering education. The successful applicant will be expected to: (1) Provide information and application material to all qualified individuals; (2) receive, review and evaluate candidate applications; (3) arrange for practicum work and study opportunities at selected laboratory facilities; (4) provide approved payments to students and universities; (5) hold periodic reviews of fellows' progress with advisors and university coordinators; (6) prepare and review program budgets; (7) prepare annual reports; and (8) provide program and manpower information to the public, to appropriate congressional offices and other interested parties.

We anticipate that the proposed financial assistance award will be a five-year effort. The estimated cost for the five year period is anticipated to be $4,000,000. One agreement will be awarded with five (5) one-year budget periods estimated to start on or about October 15, 1997. The successful recipient will advertise, evaluate and award DOE fellowships under the Nuclear Engineering/Health Physics Fellowship & Scholarship Program.

Complete solicitation packages will be available from DOE, Chicago Operations Office as mentioned above. The complete solicitation package with information on application preparation, evaluation procedures and criteria, the

extent of Government participation in the Cooperative Agreement to be awarded, and other required data will be available upon request during the time the Solicitation is open. All eligible sources may submit an application which will be considered. Applications must be submitted to the DOE-Chicago Operations Office no later than August 28, 1997.

Issued in Chicago, Illinois on June 13, 1997.

J. D. Greenwood,

Acquisition and Assistance Group Manager.

[FR Doc. 97–16645 Filed 6–24–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Privacy Act of 1974, Publication of Notice To Amend a System of Records

AGENCY: Department of Energy (DOE).

ACTION: Proposed amendment to a system of records.

SUMMARY: The purpose of this document is to give notice of the addition of a proposed routine use to one of the DOE Privacy Act systems of records.

DATES: The proposed routine use will be effective 45 calendar days from the date of this publication (August 9, 1997), unless comments are received before this date which would result in a contrary determination.

ADDRESSES: Comments should be directed to the following address: U.S. Department of Energy, GayLa Sessoms, Director, Freedom of Information Act and Privacy Act Division, HR–73, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: GayLa Sessoms, Director, Freedom of Information Act and Privacy Act Division, HR–73, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–5955; Helen Sherman, Director, Office of Financial Policy, CR–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–4860; or Abel Lopez, Office of General Counsel, GC–80, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–8618.

SUPPLEMENTARY INFORMATION: DOE proposes to amend its system of records, ''DOE–19, Accounts Receivable Financial System,'' to establish a new routine use, and update other information. The new routine use permits the disclosure of information maintained in the system of records to the Department of the Treasury for the purpose of administrative offset and debt recovery under the provisions of section 31001 (m)(1) of the Debt Collection Improvement Act of 1996 (Pub. L. 104–134). The specific changes to the record system are set forth below followed by the record system published in its entirety as amended.

Issued in Washington, DC this 6th day of June, 1997.

Archer L. Durham,

Assistant Secretary for Human Resources and Administration.

Amendment

DOE 19

System Name

Accounts Receivable Financial System.

Changes

System Locations

Delete entry and replace with:

System Locations

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, D.C. 20585;
U.S. Department of Energy, Alaska Power Administration, 2770 Sherwood Lane, Juneau, AK 99801–8545;
U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400;
U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208;
U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439;
U.S. Department of Energy, Federal Energy Technology Center, P.O. Box 880, Morgantown, WV 26507–0880;
U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393;
U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401-1563;
U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves in Colorado, Utah, and Wyoming, 907 N. Poplar, Suite 150, Casper, WY 82601;
U.S. Department of Energy, Naval Petroleum Reserves in California, P.O. Box 11, Tupman, CA 93276;
U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193-8518;
U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831;
U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Suite 700N, Oakland, CA 94612–5208;
U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343–3020;
U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 10940, West Mifflin, PA 15236–0940;
U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, Federal Building Lobby, Richland, WA 99352;
U.S. Department of Energy, Rocky Flats Field Office, P.O. Box 928, Golden, CO 80402–0928;
U.S. Department of Energy, Savannah River Operations Office, Road 1A, Aiken, SC 29801;
U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301;
U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635;
U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101;
U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123;
U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401.

Authority for Maintenance of the System

Insert ''section 31001 (m)(1) of the Debt Collection Improvement Act of 1996'' after Debt Collection Act of 1982, as amended.

Purpose(s)

Delete entry and replace with:

Purpose(s)

To record and manage the Department's accounts receivable.

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purpose of Such Uses

1. A record from this system of records may be disclosed to other Federal agencies, consumer reporting agencies for acquiring credit information, and collection agencies to aid in the collection of outstanding debts owed to the Federal Government.

2. A record from this system of records may be disclosed to Defense Manpower Data Center, Department of Defense; United States Postal Service; and other Federal, State, or local agencies to identify and locate, through computer matching, individuals indebted to DOE who are receiving

Federal salaries or benefit payments. Information from the match will be used to collect the debts by voluntary repayment, by administrative offset, or by salary offset procedures.

3. A record from this system may be disclosed to the Internal Revenue Service (1) to collect the debt by offset against the debtor's tax refunds under the Federal Tax Refund Offset Program and (2) to obtain the mailing address of a taxpayer to collect a debt owed to the DOE. Re-disclosure by DOE to a consumer reporting agency is limited to the purpose of obtaining a commercial credit report on the particular taxpayer. Such mailing address information will not be used for any other DOE purpose or disclosed by DOE to another Federal, State, or local agency which seeks to locate the same individual for its own debt collection purpose.

4. A record from this system of records may be disclosed to the Department of the Treasury for the purpose of administrative offset and debt recovery under section 31001 (m)(1) of the Debt Collection Improvement Act of 1996 (Pub. L. 104–134).

5. A record from this system of records may be disclosed for additional routine uses as listed in appendix B of 47 FR 14333, April 2, 1982.

Fair Credit Reporting Act

A record from this system may be disclosed to a ''consumer reporting agency'' as defined by the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collections Act of 1966, 31 U.S.C. 3701(a)(3), in accordance with Section 3711(f) of Title 31 of the United States Code.

* * * * *

DOE 19

SYSTEM NAME:

Accounts Receivable Financial System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATIONS:

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, D.C. 20585;
U.S. Department of Energy, Alaska Power Administration, 2770 Sherwood Lane, Juneau, AK 99801–8545;
U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400;
U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208;
U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439;
U.S. Department of Energy, Federal Energy Technology Center, P.O. Box 880, Morgantown, WV 26507–0880;
U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401–3393;
U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401–1563;
U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves in Colorado, Utah, and Wyoming, 907 N. Poplar, Suite 150, Casper, WY 82601;
U.S. Department of Energy, Naval Petroleum Reserves in California, P.O. Box 11, Tupman, CA 93276;
U.S. Department of Energy, Nevada Operations Office, P.O. Box 98518, Las Vegas, NV 89193–8518;
U.S. Department of Energy, Oak Ridge Operations Office, PO Box 2001, Oak Ridge, TN 37831;
U.S. Department of Energy, Oakland Operations Office, 1301 Clay Street, Suite 700N, Oakland, CA 94612–5208;
U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343-3020;
U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 10940, West Mifflin, PA 15236–0940;
U.S. Department of Energy, Richland Operations Office, 825 Jadwin Avenue, Federal Building Lobby, Richland, WA 99352;
U.S. Department of Energy, Rocky Flats Field Office, P.O. Box 928, Golden, CO 80402-0928;
U.S. Department of Energy, Savannah River Operations Office, Road 1A, Aiken, SC 29801;
U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301;
U.S. Department of Energy, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635;
U.S. Department of Energy, Southwestern Power Administration, P.O. Box 1619, Tulsa, OK 74101;
U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123;
U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons owing money to DOE.

CATEGORIES OF RECORDS IN SYSTEM:

Name, address, telephone number, taxpayer identification number, and other applicable debtor identifying information; invoice number; basis, amount, and status of claim; and history of claim, including collection actions taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Debt Collection Act of 1982, as amended, Debt Collection Improvement Act of 1996, 31 U.S.C. 3512; 5 U.S.C. 5701–09; Federal Property Management Regulations 101–107; Treasury Financial Manual; Executive Order 12009 and Executive Order 9397.

PURPOSE:

To record and manage the Department's accounts receivable.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. A record from this system of records may be disclosed to other Federal agencies, consumer reporting agencies for acquiring credit information, and collection agencies to aid in the collection of outstanding debts owed to the Federal Government.

2. A record from this system of records may be disclosed to Defense Manpower Data Center, Department of Defense; United States Postal Service; and other Federal, State, or local agencies to identify and locate, through computer matching, individuals indebted to DOE who are receiving Federal salaries or benefit payments. Information from the match will be used to collect the debts by voluntary repayment, by administrative offset, or by salary offset procedures.

3. A record from this system may be disclosed to the Internal Revenue Service (1) to collect the debt by offset against the debtor's tax refunds under the Federal Tax Refund Offset Program and (2) to obtain the mailing address of a taxpayer to collect a debt owed to the DOE. Re-disclosure by DOE to a consumer reporting agency is limited to the purpose of obtaining a commercial credit report on the particular taxpayer. Such mailing address information will not be used for any other DOE purpose or disclosed by DOE to another Federal, State, or local agency which seeks to locate the same individual for its own debt collection purpose.

4. A record from this system of records may be disclosed to the Department of the Treasury for the

purpose of administrative offset and debt recovery under section 31001 (m)(1) of the Debt Collection Improvement Act of 1996 (Pub. L. 104–134).

5. A record from this system of records may be disclosed for additional routine uses as listed in appendix B of 47 FR 14333, April 2, 1982.

Fair Credit Reporting Act

A record from this system may be disclosed to a ''consumer reporting agency'' as defined by the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collections Act of 1966, 31 U.S.C. 3701(a)(3), in accordance with Section 3711(f) of Title 31 of the United States Code.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, automated records, magnetic tape and disk, and microforms.

RETRIEVABILITY:

By name, taxpayer identification number, or invoice number.

SAFEGUARDS:

Access to records is by authorized personnel only.

RETENTION AND DISPOSAL:

The file on each debt is retained until payment is received and the account is audited. The file is then transferred to the local records holding area where the file is retained for two years. At the end of two years, the file is transferred to the servicing Federal Records Center and retained for four years and three months.

SYSTEM MANAGER(S) AND ADDRESSES:

Headquarters: U.S. Department of Energy, Office of Chief Financial Officer, CR–1, 1000 Independence Avenue, SW, Washington, DC 20585.

Field Offices: The managers and chief financial officers of the field locations listed above are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, Freedom of Information and Privacy Acts Division, Department of Energy (Headquarters), or the Privacy Act Officer at the appropriate address identified above, in accordance with DOE's Privacy Act regulations (10 CFR part 1008, 45 FR 61576, September 16, 1980).

b. Requests should include: Complete name, social security number, the geographic location(s) and organization(s) where the requester believes such records may be located, and time period.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individual who is the subject of the record; contracting officer, where applicable; and accounting records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISION OF THE ACT:

None.

[FR Doc. 97–16637 Filed 6–24–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–578–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

June 19, 1997.

Take notice that on June 11, 1997, Columbia Gas Transmission (Columbia), 1700 MacCorkle Avenue, S.E. Charleston, West Virginia 25314–1599, filed a request with the Commission in Docket No. CP97–578–000, pursuant to Sections 157.205, and 157.216(b) of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to modify an existing point of delivery to Baltimore Gas & Electric Company (BGE) authorized in blanket certificate issued in Docket No. CP83–76–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia proposes to modify an existing point of delivery by replacing measurement, regulation and appurtenances to provide increased capacity for interruptible transportation service. Columbia states BGE would use the gas for industrial purposes as a result of obtaining a government contract. Columbia further states that the quantities to be provided will have no impact on Columbia's existing design day and annual obligations to its customers as a result of the modification to the existing point of delivery.

Columbia reports that the estimated cost to modify the existing point of delivery would be approximately $392,700 and that BGE has agreed to reimburse Columbia in full, plus an estimated $133,100 for gross up for income taxes incurred by Columbia as a result of BGE's contribution.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16582 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–330–000]

East Tennessee Natural Gas Company; Notice of Technical Conference

June 19, 1997.

In the Commission's order issued on May 29, 1997, in the above-captioned proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened.

The conference to address the issues has been scheduled for Wednesday, July 9, 1997, from 10:00 a.m. to 5:00 p.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16585 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP85–221–094]

Frontier Gas Storage Company; Notice of Sale Pursuant to Settlement Agreement

June 19, 1997.

Take notice that on June 16, 1997, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., N.W., Suite 800, Washington, D.C. 20004, in compliance with provisions of the Commission's February 13, 1985, Order in Docket No. CP82–487–000, *et al.*, submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of 500,000 MMBtu of Frontier's gas storage inventory on an ''in place'' basis to Interenergy Resources Corporation.

Under Subpart (b) of Ordering Paragraph (G) of the Commission's February 13, 1985, Order, Frontier is ''authorized to consummate the proposed sale in place unless the Commission issues an order within 20 days after expiration of such notice period either directing that the sale not take place and setting it for hearing or permitting the sale to go forward and establishing other procedures for resolving the matter. Deliveries of gas sold in place shall be made pursuant to a schedule to be set forth in an exhibit to the executed service agreement.''

Any person desiring to be heard or to make a protest with reference to said filing should, within 10 days of the publication of such notice in the **Federal Register**, file with the Federal Energy Regulatory Commission (888 1st Street N.E., Washington, D.C. 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the preceding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16580 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–365–001]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

June 19, 1997.

Take notice that on June 16, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, to become effective June 1, 1997:

Sub Nineteenth Revised Sheet No. 24

Koch states that this tariff sheet is being filed to reflect a minor typographical correction to its Fifth Revised Volume No. 1 FERC Gas Tariff.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's rules and regulations. All such protests must be filed as provided by Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16586 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–155–004]

Mobile Bay Pipeline Company; Notice of Compliance Filing

June 19, 1997.

Take notice that on June 16, 1997, Mobile Bay Pipeline Company (Mobile Bay) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, to become effective June 1, 1997:

2nd Sub First Revised Sheet No. 91

Mobile Bay states that this filing is in compliance with the Office of Pipeline Regulation Letter Order, issued on June 6, 1997, that directed Mobile Bay to make minor changes to its tariff to incorporate GISB Standards 2.3.11 and 2.3.12 verbatim.

Mobile Bay also states that it has served copies of this filing upon each person on the official service list complied by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's rules and regulations. All such protests must be filed as provided by Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16584 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–2821–000]

Northern States Power Company; Notice of Filing

June 19, 1997.

Take notice that on May 16, 1997, Northern States Power Company (NSP) tendered for filing its amendment to the Interconnection and Interchange Agreement between NSP and North Central Power Company (NCP) in the above referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before June 30, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16589 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–3–86–001]

Pacific Gas Transmission Company; Notice of Supplemental Compliance Filing

June 19, 1997.

Take notice that on June 16, 1997, Pacific Gas Transmission Company (PGT) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1: Substitute Thirteenth Revised Sheet No. 7. PGT requested the above-referenced tariff sheet become effective July 1, 1997.

PGT asserts that the purpose of this filing is to modify references to gas quantities on the affected tariff sheet from ''MMBtu'' to ''Dth''. PGT states no other change is proposed from the May 29, 1997 filing in this docket.

PGT further states that a copy of this filing has been served on PGT's jurisdictional customers and interested state regulatory agencies, and upon the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16587 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER96–2565–000, ER96–2740–000, ER96–2744–000, ER96–2810–000, ER96–2986–000, and ER96–3001–000]

Wisconsin Public Service Corporation; Notice of Filing

June 19, 1997.

Take notice that on May 12, 1997, Wisconsin Public Service Corporation tendered for filing an amendment in the above dockets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before June 30, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16590 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–137–001, et al.]

Deseret Generation & Transmission Cooperative, et al.; Electric Rate and Corporate Regulation Filings

June 18, 1997.

Take notice that the following filings have been made with the Commission:

1. Deseret Generation & Transmission Cooperative

[Docket No. ER97–137–001]

Take notice that Deseret Generation & Transmission Cooperative (Deseret) on June 12, 1997, tendered for filing its Power Marketing and Resource Management Service Agreement between Deseret Generation & Transmission Cooperative and PacifiCorp. This filing supplemented Deseret's May 2, 1997, filing in this docket and is in compliance with the Commission's Order dated March 13, 1997, which directed Deseret to unbundle its service agreement with PacifiCorp and to take service under its open access tariff for the power sales contemplated in its service agreement with PacifiCorp.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Florida Power Corporation

[Docket Nos. ER89–627–001 and ER91–252–001]

Take notice that on May 30, 1997, Florida Power Corporation filed a refund report related to ''Rate Limitation Refunds'' for calendar year 1996 to four of its full requirements customers in accordance with provisions in Exhibit B of their contracts limiting the total bills for service to them to the amount that would be produced by applying the applicable Florida Municipal Power Agency rate to that service.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power Corporation

[Docket Nos. ER95–469–004 and ER95–457–002]

Take notice that on May 30, 1997, Florida Power Corporation tendered for filing a refund report for calendar year 1996 related to the recovery of ''Qualifying Facility Energy Payments'' from Florida Power Corporation's wholesale full and partial requirements customers in accordance with the Settlement Agreements approved in Docket Nos. ER95–469–000 and ER95–457–000.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Minnesota Power & Light Company

[Docket No. ER97–1769–000]

Take Notice that on June 6, 1997, Minnesota Power & Light Company (MP) tendered for filing Supplement No. 4 to its Electric Service Agreement with Public Utilities Commission of Brainerd, Minnesota (Brainerd). MP states that the amendment extends the term of the Agreement to December 31, 2011.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Boston Edison Company

[Docket No. ER97–2340–000]

Take notice that on June 10, 1997, Boston Edison Company (Boston Edison) corrected a filing made on June 9, 1997 by filing (1) an executed service agreement with its marketing

department to replace one filed in unexecuted form on June 9, 1997 and (2) an affidavit of Boston Edison's financial ability to purchase transmission service inadvertently not included with the earlier filing.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Company

[Docket No. ER97–2368–000]

Take notice that on May 27, 1997, New England Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Cinergy Services, Inc.

[Docket No. ER97–2610–000]

Take notice that Cinergy Services, Inc. (Cinergy), on June 13, 1997, tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), a letter concerning the Interchange Agreement between Cinergy, PSI, CG&E and North American Energy Conservation, Inc. (NAEC).

Cinergy and NAEC have requested an effective date of one day after the initial filing in this docket.

Copies of the filing were served on North American Energy Conservation, Inc., the Kentucky Public Service Commission, the New York Public Service Commission, the Public Utilities Commission of Ohio, and the Indiana Utility Regulatory Commission.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Allegheny Power Service Corp. on behalf of The Potomac Edison Company

[Docket No. ER97–2701–000]

Take notice that on May 27, 1997, Allegheny Power Service Corporation (APSC) on behalf of The Potomac Edison Company (PE) filed revised tariff sheets reflecting the negotiated agreement between the parties. In addition, at the request of Staff APSC clarifies that unbundled transmission services will be provided pursuant to its filed open access transmission tariff.

Copies of the filing have been provided to the Maryland Service Commission and the Virginia State Corporation Commission and to all parties of record.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Advantage Energy, Inc.

[Docket No. ER97–2758–000]

Take notice that on May 30, 1997, Advantage Energy, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER97–2827–000]

Take notice that Cinergy Services, Inc. (Cinergy), on June 13, 1997, tendered for filing on behalf of its operating company, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), a letter concerning the Interchange Agreement between Cinergy and Plum Street Energy Marketing, Inc. (PSEM).

Cinergy and Utility Trade Corporation have requested an effective date of one day after the initial filing in this docket.

Copies of the filing were served on Plum Street Energy Marketing, Inc., New York Public Service Commission, Public Utilities Commission of Ohio, Kentucky Public Service Commission, Indiana Utility Regulatory Commission and Mr. Thomas B. Nicholson, Deputy Consumer Counselor for Federal Affairs.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Puget Sound Energy, Inc.

[Docket No. ER97–3001–000]

Take notice that on May 19, 1997, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Non-Firm Point-To-Point Transmission Service (Service Agreement) with MP Energy as Transmission Customer. A copy of the filing was served upon MP Energy.

The Service Agreement is for non-firm point-to-point transmission service.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Minnesota Power & Light Company

[Docket No. ER97–3067–000]

Take notice that on May 27, 1997, Minnesota Power & Light Company (MP), tendered for filing signed Service Agreements with New Ulm Public Utilities Commission and Sleepy Eye Public Utilities Commission under MP's cost-based Wholesale Coordination Sales Tariff WCS–1 to satisfy its filing requirements under this tariff.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Cinergy Services, Inc.

[Docket No. ER97–3069–000]

Take notice that Cinergy Services, Inc. (Cinergy), on June 13, 1997, tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), a letter concerning the Interchange Agreement between Cinergy and The Utility Trade—Corporation (UTC).

Cinergy and Utility Trade Corporation have requested an effective date of one day after the initial filing in this docket.

Copies of the filing were served on Utility Trade Corporation, the Kentucky Public Service Commission, the National Energy Board (Canada), the Public Utilities Commission of Ohio, and the Indiana Utility Regulatory Commission.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Southern California Edison

[Docket No. ER97–3131–000]

Take notice that on May 30, 1997, Southern California Edison Company (Edison) tendered for filing the following Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement (1990 IOA) with the City of Azusa (Azusa), FERC Rate Schedule No. 247, and associated Firm Transmission Service Agreement (FTS Agreement):

Supplemental Agreement Between Southern California Edison Company And City of Azusa for the Integration of the DWR Power Sale Agreement

Edison-Azusa DWR Firm Transmission Service Agreement Between Southern California Edison Company and the City of Azusa

The Supplemental Agreement sets forth the terms and conditions by which Edison will integrate capacity and associated energy under Azusa's DWR Power Sale Agreement with Department of Water Resources of the State of California (DWR). The FTS Agreement sets forth the terms and conditions by which Edison, among other things, will provide firm transmission service for the DWR Agreement. Edison seeks waiver of the 60 day prior notice requirement and requests that the Commission assign an effective date of June 1, 1997, to the Supplemental and FTS Agreements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Central Vermont Public Service Corporation

[Docket No. ER97–3132–000]

Take notice that on May 30, 1997, Central Vermont Public Service Corporation tendered for filing an amendment to its open access transmission tariff that replaces the levelized rates with rates calculated on the basis of a declining rate base, thereby reducing the tariff rates. Central Vermont requests that the Commission waive its filing requirements and allow the amendment to become effective as of July 9, 1996.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. New York State Electric & Gas Corporation

[Docket No. ER97–3133–000]

Take notice that on May 30, 1997, New York State Electric & Gas Corporation (NYSEG), filed a Service Agreement between NYSEG and PECO Energy Company (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed and effective on January 29, 1997 with revised sheets effective on February 7, 1997, in Docket No. OA96–195–000 and ER96–2438–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of May 29, 1997 for the PECO Energy Company Service Agreement. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–3135–000]

Take notice that on May 30, 1997, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing, pursuant to its FERC Electric Tariff Rate Schedule No. 2, a service agreement for Green Mountain Power Corporation to purchase electric capacity and energy pursuant to the negotiated rates, terms, and conditions.

Con Edison states that a copy of this filing has been served by mail upon Green Mountain Power Corporation.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. UtiliCorp United Inc.

[Docket No. ER97–3143–000]

Take notice that on June 2, 1997, UtiliCorp United Inc. tendered for filing on behalf of its operating division, WestPlains Energy-Kansas, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 12, with *Southern Energy Trading and Marketing, Inc.* The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Kansas to *Southern Energy Trading and Marketing, Inc.* pursuant to the tariff, and for the sale of capacity and energy by *Southern Energy Trading and Marketing, Inc.* to WestPlains Energy-Kansas pursuant to *Southern Energy Trading and Marketing, Inc.'s* Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *Southern Energy Trading and Marketing, Inc.*

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. UtiliCorp United Inc.

[Docket No. ER97–3144–000]

Take notice that on June 2, 1997, UtiliCorp United Inc. tendered for filing on behalf of its operating division, Missouri Public Service, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with *Southern Energy Trading and Marketing, Inc.* The Service Agreement provides for the sale of capacity and energy by Missouri Public Service to *Southern Energy Trading and Marketing, Inc.* pursuant to the tariff, and for the sale of capacity and energy by *Southern Energy Trading and Marketing, Inc.* to Missouri Public Service pursuant to *Southern Energy Trading and Marketing, Inc.'s* Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *Southern Energy Trading and Marketing, Inc.*

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. UtiliCorp United Inc.

[Docket No. ER97–3145–000]

Take notice that on June 2, 1997, UtiliCorp United Inc. tendered for filing on behalf of its operating division, WestPlains Energy-Colorado, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 11, with *Southern Energy Trading and Marketing, Inc.* The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Colorado to *Southern Energy Trading and Marketing, Inc.* pursuant to the tariff, and for the sale of capacity and energy by *Southern Energy Trading and Marketing, Inc.* to WestPlains Energy-Colorado pursuant to *Southern Energy Trading and Marketing, Inc.'s* Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *Southern Energy Trading and Marketing, Inc.*

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Portland General Electric Company

[Docket No. ER97–3158–000]

Take notice that on June 3, 1997, Portland General Electric Company (PGE), tendered for filing under FERC Electric Tariff, Second Revised Volume No. 2, an executed Service Agreement with Vastar Power Marketing, Inc.

Pursuant to 18 CFR 35.11 and the Commission's order issued July 30, 1993 (Docket No. PL93–2–002), PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the executed Service Agreement to become effective June 2, 1997.

A copy of this filing was caused to be served upon Vastar Power Marketing, Inc. as noted in the filing letter.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Niagara Mohawk Power Corporation

[Docket No. ER97–3159–000]

Take notice that on June 3, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and PanEnergy Trading and Market Services, L.L.C. This Transmission Service Agreement specifies that PanEnergy Trading and Market Services, L.L.C. has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and PanEnergy Trading and Market Services, L.L.C. to enter into

separately scheduled transactions under which NMPC will provide transmission service for PanEnergy Trading and Market Services, L.L.C. as the parties may mutually agree.

NMPC requests an effective date of May 29, 1997. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and PanEnergy Trading and Market Services, L.L.C.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. San Diego Gas & Electric Company

[Docket No. ER97–3160–000]

Take notice that on June 3, 1997, San Diego Gas & Electric Company (SDG&E), tendered for filing and acceptance, pursuant to 18 CFR 35.13, Service Agreements (Service Agreements) with the following entities for Point-To-Point Transmission Service under SDG&E's Open Access Transmission Tariff (Tariff) filed in compliance with FERC Order No. 888:

1. Comision Federal de Electricidad
2. San Diego Gas & Electric Co. (Energy Trading)
3. Valero Power Services

SDG&E filed the executed Service Agreements with the Commission in compliance with applicable Commission regulations. SDG&E also provided Sheet No. 114 (Attachment E) to the Tariff, which is a list of current subscribers. SDG&E requests waiver of the Commission's notice requirement to permit an effective date of June 1, 1997.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Tucson Electric Power Company

[Docket No. ER97–3161–000]

Take notice that on June 4, 1997, Tucson Electric Power Company (TEP), tendered for filing eleven (11) service agreements for firm transmission service under Part II of its Open Access Transmission Tariff filed in Docket No. OA96–140–000. All of the agreements concern the provision of firm transmission service to Enron Power Marketing, Inc. TEP requests waiver of notice to permit the service agreements to become effective as of May 9, 1997.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Upper Peninsula Power Company

[Docket No. ER97–3162–000]

Take notice that on June 2, 1997, Upper Peninsula Power Company tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission service under its open access transmission service tariff for service to Southern Energy Trading and Marketing, Inc. UPPCO proposes to make the service agreement effective as of July 18, 1997.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Upper Peninsula Power Company

[Docket No. ER97–3163–000]

Take notice that on June 2, 1997, Upper Peninsula Power Company tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission service under its open access transmission service tariff for service to CMS Marketing, Services and Trading Company. UPPCO proposes to make the service agreement effective as of July 14, 1997.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Citizens Lehman Power Sales

[Docket No. ER97–3164–000]

Take notice that on May 22, 1997, Citizens Power Sales, tendered for filing a Notice of Succession. Citizens Lehman Power Sales changes its name to Citizens Power Sales to become effective April 30, 1997.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Portland General Electric Company

[Docket No. ER97–3165–000]

Take notice that on May 30, 1997, Portland General Electric Company (PGE) tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff Original Volume No. 8, Docket No. OA96–137–000), an executed Service Agreement for Short-Term Firm Point-to-Point Transmission Service with Enron Power Marketing, Inc.

Pursuant to 18 CFR 35.11, and the Commission's Order in Docket No. PL93–2–002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Service Agreement to become effective May 7, 1997.

A copy of this filing was caused to be served upon Enron Power Marketing, Inc. as noted in the filing letter.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Portland General Electric Company

[Docket No. ER97–3166–000]

Take notice that on May 30, 1997, Portland General Electric Company (PGE) tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff Original Volume No. 8, Docket No. OA96–137–000),executed Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service with Noram Energy Services, Inc.

Pursuant to 18 CFR 35.11, and the Commission's Order in Docket No. PL93–2–002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Service Agreements to become effective May 6, 1997.

A copy of this filing was caused to be served upon Noram Energy Services, Inc. as noted in the filing letter.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Southern Indiana Gas and Electric Company

[Docket No. ER97–3167–000]

Take notice that on May 30, 1997, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing the following agreements concerning the provision of electric service to the City of Jasper, Indiana:

1. Agreement for the Supply of Electric Energy Between the City of Jasper, Indiana and Southern Indiana Gas and Electric Company
2. Service Agreement for Network Integration Transmission Service
3. Transmission Service Specifications For Network Integration
4. Network Operating Agreement

SIGECO is requesting waiver of notice to permit the filed agreements to become effective as of May 15, 1997. In addition, SIGECO is requesting permission to collect, on an interim basis, the uncontested settlement transmission rates filed on August 14, 1996 in Docket Nos. ER96–705–000 and OA96–117–000, pending final action on the uncontested settlement.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Illinois Power Company

[Docket No. ER97–3168–000]

Take notice that on May 27, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur,

Illinois 62526, tendered for filing firm transmission agreements under which General Tire, Inc. will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 15, 1997.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Minnesota Power & Light Company

[Docket No. ER97–3169–000]

Take notice that on May 27, 1997, Minnesota Power & Light Company (MP), tendered for filing a signed Service Agreement with New Ulm Public Utilities Commission and Sleepy Eye Public Utilities Commission under MP's market-based Wholesale Coordination Sales Tariff (WCS–2) to satisfy its filing requirements under this tariff.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Consumers Energy Company

[Docket No. ER97–3171–000]

Take notice that on May 29, 1997, Consumers Energy Company (Consumers), tendered for filing an unexecuted service agreement for Non-Firm Point-to-Point Transmission Service pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison) with the following transmission customers:

Minnesota Power & Light Company
The Toledo Edison Company
Illinois Power Company
CMS Marketing, Services and Trading Company
Cinergy Services, Inc.
Pennsylvania Power & Light Company
Louisville Gas & Electric Company
The American Electric Power Service Corporation
Virginia Electric and Power Company
Ohio Edison Company and Pennsylvania Power Company
Northern Indiana Public Service Company

Copies of the filed agreements were served upon the Michigan Public Service Commission, Detroit Edison and the respective transmission customers.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Wisconsin Power and Light Company

[Docket No. ER97–3173–000]

Take notice that on June 4, 1997, Wisconsin Power and Light Company (WP&L), tendered for filing Form Of Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service establishing NIPSCO Energy Services, Inc. as a point-to-point transmission customer under the terms of WP&L's transmission tariff.

WP&L requests an effective date of May 5, 1997, and, accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

35. Central Vermont Public Service Corporation

[Docket No. ER97–3174–000]

Take notice that on June 3, 1997, Central Vermont Public Service Corporation, tendered for filing a Compliance Tariff pursuant to Order No. 888–A.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

36. Ohio Edison Company and Pennsylvania Power Company

[Docket No. ER97–3175–000]

Take notice that on June 4, 1997, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement with Valero Power Services Company under Ohio Edison's Power Sales Tariff. This filing is made pursuant to Section 205 of the Federal Power Act.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

37. Illinois Municipal Electric Agency

[Docket No. IR–1535–000]

Notice is hereby given that the Illinois Municipal Electric Agency (IMEA), on behalf of itself and its twenty four members (Members) has filed on June 9, 1997, pursuant to Section 292.402 of the Commission's Regulations, a petition for waiver of certain obligations imposed under Section 292.303(a) and 292.303(b) of the Commission's Regulations (18 CFR Part 292, Subpart C) which implement Section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA).

IMEA requests a waiver on behalf of the Cities of Altmont, Bethany, Breese, Bushnell, Cairo, Carlyle, Carmi, Casey, Farmer, Flora, Highland, Ladd, Marshall, Mascoutah, Metropolis, Oglesby, Peru, Princeton, Rantoul, Rock Falls, Roodhouse, and Winnetka, the Village of Freeburg, and the Town of Waterloo, Illinois. Specifically, IMEA seeks a waiver of the requirement contained in 18 CFR Part 292.303(a) which requires Member to purchase power made available from any qualifying facility (QF) and of the obligation in 18 CFR 292.303(b) which requires IMEA to make sales to any QF. The applicant believes that purchases by Members from QFs or sales by IMEA to QFs are not necessary to encourage cogeneration and small power production and are not otherwise required by Section 210 of PURPA.

Comment date: Within 30 days after the date of publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

38. Sierra Pacific Power Company

[Docket No. OA96–68–003]

Take notice that on June 6, 1997, Sierra Pacific Power Company (Sierra) tendered for filing the following proposed sheets of Sierra's Order No. 888 open-access transmission tariff:
Second Revised Sheet No. 90
Second Revised Sheet No. 121
Second Revised Sheet No. 130
Second Revised Sheet No. 131

Second Revised Sheet Nos.130 and 131 are being tendered pursuant to the directive of the Commission's May 28, 1997, order in this docket that approved a settlement that resolved all issues with respect to Sierra's first Section 205 rate filing pursuant to the Commission's Order No. 888. The other two tariff sheets are being tendered herewith to correct obvious clerical and typographical errors. Specifically, the one revision proposed for Sheet No. 90 is to add the paragraph number ''29.1'' that had been inadvertently omitted. Similarly, the one revision proposed for sheet no. 121 is to correct an obvious typographical error by replacing ''KW'' with ''KWH''.

Sierra proposes an effective date for all tendered tariff sheets of July 9, 1996, which is the effective date for all other tariff sheets approved by the Commission pursuant to the settlement and is in conformance with the requirements of Order No. 888 and the Commission's suspension order in this docket.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

39. Florida Power Corporation

[Docket No. OA97–358–000]

Take notice that Florida Power Corporation (Florida Power), on June 9, 1997, tendered for filing a fully executed copy of Amendment No. 2 to Contract for Interchange Service

between Florida Power and City of Lake Worth (Amendment No. 2).

On December 31, 1996, Florida Power tendered for filing a partially executed copy of Amendment No. 2. The sole purpose of this filing is to provide the Commission with a fully executed copy.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16624 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2338–000, et al.]

Montaup Electric Company, et al. Electric Rate and Corporate Regulation Filings

June 17, 1997.

Take notice that the following filings have been made with the Commission:

1. Montaup Electric Company

[Docket No. ER97–2338–000]

Take notice that on June 11, 1997, Montaup Electric Company amended its filing in the above-referenced docket in response to a deficiency letter issued May 12, 1997.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Zond Development Corporation

[Docket No. ER97–2532–000]

Take notice that on May 30, 1997, Zond Development Corporation tendered for filing a letter requesting to withdraw its request for privileged treatment as stated in its initial filing.

Comment date: June 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Sierra Pacific Power Company

[Docket No. ER97–3111–000]

Take notice that on May 29, 1997, Sierra Pacific Power Company (Sierra), tendered for filing Service Agreements (Service Agreements) with the following entities for Non Firm Point-to-Point Transmission Service under Sierra's Open Access Transmission Tariff (Tariff):

1. The Power Company of America, L.P.
2. NorAm Energy Services, Inc.

Sierra filed the executed Service Agreements with the Commission in compliance with Section 14.4 of the Tariff and applicable Commission Regulations. Sierra also submitted revised Sheet No. 148 (Attachment E) to the Tariff, which is an updated list of all current subscribers. Sierra requests waiver of the Commission's notice requirements to permit and effective date of May 31, 1997 for Attachment E, and to allow the Service Agreements to become effective according to their terms.

Copies of this filing were served upon the Public Service Commission of Nevada, the Public Utilities Commission of California and all interested parties.

Comment date: June 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Montaup Electric Company

[Docket No. ER97–3127–000]

Take notice that on May 30, 1997, Montaup Electric Company (Montaup) filed amendments to its service agreement with Eastern Edison Company (Eastern), its Massachusetts retail affiliate, under Montaup's FERC Electric Tariff, First Revised Volume No. 1. Among other things, these amendments provide for termination of Eastern's obligation to purchase all-requirements service from Montaup and create a mechanism for the recovery of stranded costs that will result therefrom. Along with the service agreement amendments, Montaup also filed a stipulation and agreement it has entered into in Massachusetts. The stipulation and agreement, which has also been filed with the Massachusetts Department of Public Utilities, sets forth a program for introducing full retail open access in Massachusetts on January 1, 1998. Montaup has proposed an effective date of January 1, 1998 for the amended service agreement.

Copies of the filing were served upon all parties taking service under Montaup's tariff, the regulatory commissions in Massachusetts and Rhode Island, and the attorneys general of Massachusetts and Rhode Island.

Comment date: June 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Entergy Services, Inc.

[Docket No. ER97–3128–000]

Take notice that on May 30, 1997, Entergy Services, Inc. (Entergy Services) on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy 0perating Companies) tendered for filing a Non-firm Point-to-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Midcon Power Services Corp.

Comment date: June 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Services, Inc.

[Docket No. ER97–3129–000]

Take notice that on May 30, 1997, Entergy Services, Inc. (Entergy Services) on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies) tendered for filing a Non-firm Point-to-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Wisconsin Electric Power Company.

Comment date: June 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Entergy Services, Inc.

[Docket No. ER97–3130–000]

Take notice that on May 30, 1997, Entergy Services, Inc. (Entergy Services) on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy 0perating Companies) tendered for filing a Non-firm Point-to-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Enron Power Marketing, Inc.

Comment date: June 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. New York State Electric & Gas Corporation

[Docket No. ER97–3133–000]

Take notice that on May 30, 1997, New York State Electric & Gas

Corporation (NYSEG), filed a Service Agreement between NYSEG and PECO Energy Company (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed and effective on January 29, 1997 with revised sheets effective on February 7, 1997 in docket No. OA96–195–000 and ER96–2438–000.

Comment date: June 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. New York State Electric & Gas Corporation

[Docket No. ER97–3134–000]

Take notice that on May 30, 1997, New York State Electric & Gas Corporation (NYSEG), filed a Service Agreement between NYSEG and Public Service Electric and Gas Company (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed and effective on January 29, 1997 with revised sheets effective on February 7, 1997 in Docket No. OA96–195–000 and ER96–2438–000.

Comment date: June 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Portland General Electric Company

[Docket No. ER97–3136–000]

Take notice that on May 30, 1997, Portland General Electric Company (PGE) tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff Original Volume No. 8, Docket No. OA96–137–000), an executed Service Agreement for Non-Firm Point-to-Point Transmission Service with Williams Energy Services Company.

PGE respectfully requests that the Commission allow the Service Agreement to become effective April 3, 1997. PGE will be required to refund the time value of any revenues collected from the effective date of the Service Agreement through July 29, 1997, to account for the prior-notice requirement under 18 CFR 35.3.

A copy of this filing was caused to be served upon Williams Energy Services Company as noted in the filing letter.

Comment date: June 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Allegheny Power Service Corp. on Behalf of Monongahela Power Company, the Potomac Edison Co., and West Penn Power Company (Allegheny Power)

[Docket No. ER97–3137–000]

Take notice that on May 30, 1997, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Supplement No. 18 to add Borough of Tarentum to Allegheny Power Open Access Transmission Tariff which has been submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–18–000. West Penn requests a waiver of notice requirements and asks the Commission to honor the proposed effective date of April 1, 1997 as specified in the agreement negotiated by the parties.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: June 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Arizona Public Service Company

[Docket No. ER97–3138–000]

Take notice that on June 2, 1997, Arizona Public Service Company (APS) tendered for filing a Notice of Cancellation of the Power Coordination agreement between Imperial Irrigation District and APS.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Central Illinois Light Company

[Docket No. ER97–3139–000]

Take notice that Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, on June 2, 1997, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and service agreements for three new customers.

CILCO requested an effective date of May 31, 1997.

Copies of the filing were served on all affected customers and the Illinois Commerce Commission.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. PacifiCorp

[Docket No. ER97–3140–000]

Take notice that PacifiCorp on June 2, 1997, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Service Agreement with Cogentrix Energy Power Marketing, Inc. under PacifiCorp's FERC Electric Tariff, Fourth Revised Volume No. 3.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. South Carolina Electric & Gas Company

[Docket No. ER97–3141–000]

Take notice that on June 2, 1997, South Carolina Electric & Gas Company (SCE&G) submitted service agreements establishing NorAm Energy Services, Inc. (NORAM) and Vitol Gas & Electric, L.L.C.(VITOL) as customers under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreements. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon NORAM, VITOL, and the South Carolina Public Service Commission.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Oklahoma Gas and Electric Company

[Docket No. ER97–3142–000]

Take notice that on June 2, 1997, Oklahoma Gas and Electric Company (OG&E) tendered for filing a service agreement for Pacific Power Marketing, Inc. to take service under its open access tariff.

Copies of this filing have been served on the affected party, the Oklahoma Corporation Commission and the Arkansas Public Service Commission.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Kansas City Power & Light Company

[Docket No. ER97–3146–000]

Take notice that on June 3, 1997, Kansas City Power & Light Company (KCPL) tendered for filing a Service Agreement dated May 14, 1997, between KCPL and Carolina Power & Light Company. KCPL proposes an effective date of May 23, 1997, and requests

waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888 in Docket No. OA96–4–000.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Washington Water Power Company

[Docket No. ER97–3147–000]

Take notice that on June 2, 1997, Washington Water Power Company (WWP) tendered for filing executed Service Agreements under WWP's FERC Electric Tariff Original Volume No. 9. WWP requests waiver of the prior notice requirement and requests an effective date of May 1,1997.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Cinergy Services, Inc.

[Docket No. ER97–3148–000]

Take notice that on June 2, 1997, Cinergy Services, Inc. on behalf of its Operating Company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (collectively referred to as Cinergy) tendered for filing a Power Sales Agreement between Cinergy and the Commissioners of Public Works of Greenwood, South Carolina (Greenwood) as an original rate schedule. Cinergy has requested an effective date of June 6, 1997 for the Power Sales Agreement. The Power Sales Agreement is a stand-alone contract for market-based rates.

Copies of this filing have been served on the Commissioners of Public Works of Greenwood, South Carolina, the Public Service Commission of South Carolina and Duke Power Company.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Illinois Power Company

[Docket No. ER97–3149–000]

Take notice that on June 2, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which AYP Energy will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 19, 1997.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Illinois Power Company

[Docket No. ER97–3150–000]

Take notice that on June 2, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Southern Company Services, Inc. will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 21, 1997.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Illinois Power Company

[Docket No. ER97–3151–000]

Take notice that on June 2, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Equitable Power Services Company will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 1, 1997.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Central Illinois Light Company

[Docket No. ER97–3152–000]

Take notice that Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, on June 3, 1997, tendered for filing with the Commission a proposed service agreement under its Coordination Sales Tariff with QST Energy Trading Inc.

CILCO requested an effective date of August 2, 1997.

Copies of this filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Union Electric Company

[Docket No. ER97–3153–000]

Take notice that on June 3, 1997, Union Electric Company (UE) tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service between Illinois Power Company (IP) and UE. UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to IP pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Montaup Electric Company

[Docket No. ER97–3200–000]

Take notice that on June 4, 1997, Montaup Electric Company (Montaup) tendered for filing amendments to its open access transmission tariff and service agreements and network operating agreements with its three affiliated distribution companies, Blackstone Valley Electric Company (Blackstone), Newport Electric Corporation (Newport) and Eastern Edison Company (Eastern Edison). Montaup states that the tariff amendments and agreements implement retail access in Rhode Island and Massachusetts pursuant to state requirements. This filing modifies the agreements filed in Docket Nos. ER97–2800–000 and ER97–3127–000.

Montaup requests that the tariff amendments and the service agreements and network operating agreements with Blackstone and Newport become effective on July 1, 1997 and that the service agreement and network operating agreement with Eastern Edison become effective on January 1, 1998.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Commonwealth Edison Company

[Docket No. ER97–3271–000]

Take notice that on June 2, 1997, Commonwealth Edison Company (ComEd) tendered for filing a new form of service agreement, Short-Term Firm Service Agreement.

Comment date: July 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Golden Spread Electric Cooperative, Inc.

[Docket No. ES97–36–000]

Take notice that on May 30, 1997, Golden Spread Electric Cooperative, Inc. (Golden Spread) filed an application, under § 204 of the Federal Power Act, seeking authorization to issue short term notes in an aggregate amount of not more than $30 million outstanding at any one time, from time to time during the period from July 27, 1997 through July 26, 1999, with a final maturity date no later than July 26, 2000.

Comment date: July 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Missouri Basin Municipal Power Agency Applicant v. Western Area Power Administration of the United States Department of Energy

[Docket No. TX97–7–000]

Take notice that on June 10, 1997, Missouri Basin Municipal Power Agency (Missouri Basin) filed an Application under Section 211 of the Federal Power Act seeking network firm point-to-point and non-firm point-to-point transmission service from the Western Area Power Administration (WAPA). Missouri Basin is seeking such transmission service over the transmission facilities owned by Western in the Pick-Sloan-Eastern Division Marketing Area located in the Upper Midwest part of the United States.

Comment date: July 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16623 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC97–40–000, et al.]

Virginia Electric and Power Company, et al.; Electric Rate and Corporate Regulation Filings

June 19, 1997.

Take notice that the following filings have been made with the Commission:

1. Virginia Electric and Power Company

[Docket No. EC97–40–000]

Take notice that on June 13, 1997, Virginia Electric and Power Company (Applicant) filed an application pursuant to § 203 of the Federal Power Act with the Federal Energy Regulatory Commission for authorization to enter into a Bill of Sale with the Edgecombe-Martin County Electric Membership Corporation (E–MC) by which Applicant will sell and E–MC will purchase various electrical facilities located within Edgecombe County, North Carolina. The purchase price is $122,920.

Applicant is incorporated under the laws of the State of Virginia with its principal business office at Richmond, Virginia and is qualified to transact business in the states of Virginia and North Carolina. Applicant is engaged, among other things, in the business of generation, distribution and sale of electric energy in substantial portions of the states of Virginia and northeastern North Carolina.

Applicant represents that the proposed sale of these facilities will facilitate the efficiency and economy of operation and service to the public by allowing E–MC to utilize the facilities, now owned by the Applicant, to provide electric service to E–MC's customers.

Comment date: July 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Boston Edison Company, BEC Energy

[Docket No. EC97–39–000]

Take notice that on June 12, 1997, Boston Edison Company and BEC Energy (Applicants) tendered for filing an application pursuant to Section 203 of the Federal Power Act seeking an order authorizing the implementation of a proposed corporate reorganization to create a holding company structure. Pursuant to the proposed reorganization, Boston Edison Company would become the wholly-owned subsidiary of a new parent, BEC Energy, which has been organized as a Massachusetts business trust.

Comment date: July 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Virginia Electric and Power Company

[Docket No. EC97–41–000]

Take notice that on June 13, 1997, Virginia Electric and Power Company (Applicant) filed an application pursuant to section 203 of the Federal Power Act with the Federal Energy Regulatory Commission for authorization to enter into a Bill of Sale with Southside Electric Cooperative (SEC) by which Applicant sells and SEC purchases various electrical facilities located within Pittsylvania and Campbell Counties, Virginia. The purchase price is $98,644.

Applicant is incorporated under the laws of the State of Virginia with its principal business office at Richmond, Virginia and is qualified to transact business in the states of Virginia and North Carolina. Applicant is engaged, among other things, in the business of generation, distribution and sale of electric energy in substantial portions of the states of Virginia and northeastern North Carolina.

Applicant represents that the sale of these facilities facilitates the efficiency and economy of operation and service to the public by allowing SEC to acquire facilities and to integrate them into SEC's current distribution system at a cost less than the alternative of Applicant's removal of the facilities at SEC's expense.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Rochester Gas and Electric Corporation

[Docket No. ER97–3155–000]

Take notice that on June 2, 1997, Rochester Gas and Electric Corporation (RG&E) filed a Service Agreement between RG&E and American Energy Solutions, Inc. (Customer). This Service Agreement specifies that the Customer has agreed to the rates, term and conditions of RG&E's FERC Electric Rate Schedule, Original Volume No. 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1279–000, as amended by RG&E's December, 31 1996, filing in Docket No. OA97–243–000(pending).

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of May 27, 1997 for American Energy Solutions, Inc. Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Kentucky Utilities Company

[Docket No. ER97–3156–000]

Take notice that on May 28, 1997, Kentucky Utilities Company (KU) tendered for filing service agreements between KU and Equitable Power Services, Minnesota Power & Light Company, Southern Indiana Gas and

Electric Company, American Energy Solutions, The Power Company of America, L.P., Citizens Lehman Power Sales, WPS Energy Services, Inc., Baltimore Gas & Electric Company, Toledo Edison Company, Cleveland Electric Illuminating Company, VTEC Energy, AYP Energy, Inc., Tennessee Valley Authority, Consumers Power Company and the Detroit Edison Company (represented collectively as the Michigan Companies) under its Transmission Services (TS) Tariff.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Kentucky Utilities Company

[Docket No. ER97–3157–000]

Take notice that on May 28, 1997, Kentucky Utilities Company (KU) tendered for filing service agreements with Equitable Power Services, Minnesota Power & Light Company, Southern Indiana Gas and Electric Company, American Energy Solutions, The Power Company of America, L.P., Citizens Lehman Power Sales, WPS Energy Services. Inc., Baltimore Gas & Electric Company, Toledo Edison Company, Cleveland Electric Illuminating Company, VTEC Energy, AYP Energy, Inc., and Consumers Power Company and the Detroit Edison Company (represented collectively as the Michigan Companies) under its Power Services (PS) Tariff.

Comment date: July 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Electric Power Company

[Docket No. ER97–3176–000]

Take notice that on June 4, 1997, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission service entered into with Enron Power Marketing, Inc. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated rate schedule MEPCO–FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Central Illinois Public Service Company

[Docket No. ER97–3177–000]

Take notice that on June 4, 1997, Central Illinois Public Service Company (CIPS) submitted a service agreement, dated May 29, 1997, establishing Vastar Power Marketing, Inc. as a customer under the terms of CIPS' Open Access Transmission Tariff.

CIPS requests an effective date of May 29, 1997 for the service agreement. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon Vastar Power Marketing, Inc. and the Illinois Commerce Commission.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Pennsylvania Power & Light Company

[Docket No. ER97–3178–000]

Take Notice that on June 4, 1997, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement dated May 29, 1997 with Monongahela Power Company, West Penn Power Company and The Potomac Edison Company (collectively Allegheny Power) under PP&L's FERC Electric Tariff, Original Volume No. 1. The Service Agreement adds Allegheny Power as an eligible customer under the Tariff.

PP&L requests an effective date of June 4, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Allegheny Power and to the Pennsylvania Public Utility Commission.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Central Illinois Public Service Company

[Docket No. ER97–3179–000]

Take notice that on June 4, 1997, Central Illinois Public Service Company (CIPS) submitted two umbrella short-term firm transmission service agreements, dated April 10, 1997 and May 7, 1997, establishing the following as customers under the terms of CIPS' Open Access Transmission Tariff: Citizens Power Sales and Illinois Power—Bulk Power Marketing.

CIPS requests an effective date of May 7, 1997 for the service agreements. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served on the two customers and the Illinois Commerce Commission.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Commonwealth Edison Company

[Docket No. ER97–3180–000]

Take notice that on June 4, 1997, Commonwealth Edison Company (ComEd) submitted for filing a short-term firm Umbrella Service Agreement for firm transactions with Heartland Energy Services, Inc. (Heartland), under the terms of ComEd's OATT.

ComEd requests an effective date of May 7, 1997, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon Heartland and the Illinois Commerce Commission.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Central Maine Power Company

[Docket No. ER97–3182–000]

Take notice that on June 4, 1997, Central Maine Power Company (CMP), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission service entered into with Western Power Services, Inc. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 3, as supplemented.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Central Maine Power Company

[Docket No. ER97–3183–000]

Take notice that on June 4, 1997, Central Maine Power Company (CMP), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission service entered into with Southern Energy Trading and Marketing, Inc. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 3, as supplemented.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. IES Utilities Inc.

[Docket No. ER97–3184–000]

Take notice that on June 4, 1997, IES Utilities Inc. (IES), tendered for filing a new FERC Electric Service Tariff, Original Volume 1. The proposed changes would decrease revenues from jurisdictional sales and service by $31,167, based on the 12-month period ending December 31, 1996. Filing requirements are submitted under Section 35.13(a)(2)(ii) of the Commission's Rules and Regulations.

The proposed rates are to go into effect on January 1, 1997.

Copies of the filing were served upon IES's jurisdictional customers and the Iowa State Utilities Board.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Dayton Power and Light Company

[Docket No. ER97–3186–000]

Take notice that on June 3, 1997, Dayton Power and Light Company (DP&L), tendered for filing an amendment to the above referenced docket.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Power Systems Group, Inc.

[Docket No. ER97–3187–000]

Take notice that on May 29, 1997, Power Systems Group, Inc. tendered for filing an application for an order approving rate schedule and granting blanket approval and waivers.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. PacifiCorp

[Docket No. ER97–3188–000]

Take notice that on June 4, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Residential Exchange Termination Agreement dated May 23, 1997 (Agreement), between PacifiCorp and the Bonneville Power Administration (Bonneville).

Copies of this filing were supplied to Bonneville, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. R.J. Dahnke & Associates

[Docket No. ER97–3191–000]

Take notice that on June 3, 1997, R.J. Dahnke & Associates, tendered for filing a Notice of Cancellation of R.J. Dahnke & Associates' FERC Rate Schedule No. 1.

R.J. Dahnke & Associates requests that this cancellation become effective August 4, 1997.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Maine Electric Power Company

[Docket No. ER97–3192–000]

Take notice that on June 4, 1997, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission service entered into with Fitchburg Gas and Electric Light Company. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff Original Volume No. 1, as supplemented.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Montenay Montgomery Limited Partnership

[Docket No. QF88–142–006]

On June 5, 1997, Montenay Montgomery Limited Partnership (Applicant), c/o Montenay Energy Resources of Montgomery County, Inc., 800 Third Avenue, New York, NY 10022, submitted for filing an application for Commission recertification as a qualifying small power production facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the facility is a biomass-fueled small power production facility located in the Plymouth Township, Pennsylvania. The Commission previously certified the facility as a qualifying facility in *Dravo Operations of Montgomery County, Inc.*, 42 FERC ¶ 62,144 (1988). The facility was recertified in *Dravo Energy Resources of Montgomery County, Inc.* 57 FERC ¶ 62,017 (1991), and again in *Montenay Energy Resources of Montgomery County, Inc.*, 57 FERC ¶ 62,240 (1991). Applicant also filed notices of self-recertification on December 8, 1987, October 21, 1991, and June 29, 1993. The electric power production capacity of the facility is 29 MW. Power from the facility is sold to PECO Energy Company. According to the applicant, the instant recertification is filed to reflect proposed changes in ownership of the facility resulting from the settlement of litigation between the owners of the facility and certain affiliates.

Comment date: Within 15 days after the date of publication of this notice in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16621 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–318–000]

Algonquin Gas Transmission Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Taunton Municipal Lighting Plant Project and Request for Comments on Environmental Issues

June 19, 1997.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities, about 924 feet of 12-inch-diameter pipeline, a new meter station and appurtenant facilities, proposed in the Taunton Municipal Lighting Plant Project.[1] This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Summary of the Proposed Project

Algonquin Gas Transmission Company (Algonquin) proposes to expand the capacity of its facilities in Massachusetts to transport an additional 27,000 million British thermal units per day of natural gas to the Taunton Municipal Lighting Plant (TMLP). Algonquin seeks authority to construct and operate:

- 942 feet of 12-inch-diameter pipeline between the towns of Berkley and Taunton, Massachusetts;
- A new meter station on TMLP property in Taunton; and
- A tap and valving in Berkley.

TMLP would construct about 150 feet of nonjurisdictional pipeline to connect

[1] Algonquin Gas Transmission Company's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

the meter station to the existing Cleary Flood generating station.

The location of the project facilities is shown in appendix 1.[2] If you are interested in obtaining procedural information please write to the Secretary of the Commission.

Land Requirements for Construction

Construction of the proposed facilities would require about 1.17 acres of land. Following construction, about 0.58 acre would be maintained as new permanent right-of-way. The remaining 0.59 acre of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Vegetation and wildlife
- Endangered and threatened species
- Land use
- Cultural resources
- Air quality and noise
- Hazardous waste
- Public safety

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commissions Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commissions official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Algonquin. This preliminary list of issues may be changed based on your comments and our analysis.

- Crossing of the Taunton River by directional drilling.
- Location of the proposed directional drill target and pipe make-up area near the residences on Candice Lane.
- Location of a valve near the residences on Candice Lane.
- A potential alternative route that would be located entirely on the west side of the Taunton River.

Also, we have made a preliminary decision to not address the impacts of the nonjurisdictional facilities. We will briefly describe their location and status in the EA.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Send two copies of your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Reference Docket No. CP97–318–000; and
- Mail your comments so that they will be received in Washington, DC on or before July 21, 1997.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commissions Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention.

You do not need intervenor status to have your comments considered.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16581 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2696–004]

Stuyvesant Falls; Notice of Extension of Comment Due Date

June 19, 1997.

On May 8, 1997, the Commission issued a Notice of Availability of Environmental Assessment (EA), Application for Surrender of Project License for the Stuyvesant Falls Project No. 2696–004. The notice required comments to be filed within 30 days of the issuance date, or no later than June 9, 1997.

By letter dated June 6, 1997, the U.S. Fish and Wildlife Service stated that they received the EA and notice on May 16, 1997 and had less than 30 days to review the document. In addition, the Town of Stuyvesant and New York Rivers United stated that they did not receive copies of the EA, and therefore were not provided sufficient opportunity to comment on the document. In light of these comments, the Commission will hereby extend the due date for the EA on the Application for Surrender of Project License for the

Stuyvesant Falls Project No. 2696–004 to July 25, 1997.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16583 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–276–000]

Texas Eastern Transmission Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Line 1–A Reactivation Project and Request for Comments on Environmental Issues

June 19, 1997.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities proposed in the Line 1–A Reactivation Project.[1] This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Summary of the Proposed Project

Texas Eastern Transmission Corporation (Texas Eastern) proposes to reactivate an existing inactive pipeline, Line 1–A, and to construct new facilities associated with operation of the reactivated Line 1–A in Chester and Delaware Counties, Pennsylvania. This would enable Texas Eastern to deliver on a firm basis up to 120,000 dekatherms per day (Dth/d) of natural gas to PECO Energy Company (PECO) and 8,000 Dth/d to Mobil Oil Corporation (Mobil). Texas Eastern seeks authority to:

- Reactivate about 22.7 miles of the 20-inch-diameter Line 1–A in Chester and Delaware Counties, which includes:

—Investigation and repair, if needed, of 180 anomaly sites (irregularities in the pipe wall which are typically caused by mechanical damage or corrosion); and

—Hydrostatically test the pipeline.

- Install the following:

—New regulating facilities and a pig launcher at the Eagle Compressor Station (milepost (MP) 0.0);

—Delivery tap off of Line 1–A for Texas Easterns existing Planebrook Measurement and Regulation (M&R) Station (MP 6.8)[2]

—Mainline valves at MP 6.8, MP 12.6, and MP 16.0;

—Delivey taps off Lines 1–H and 1–A (MP 10.0) for the Hershey Mills M&R to be constructed by PECO; and

—Delivery taps off Line 1–A and 1–H, and a pig receiver at the new Brookhaven M&R Station at Chester Junction (MP 22.7).

The proposed facilities would cost about $12,800,000.

The location of the project facilities is shown in appendix 1.[3] If you are interested in obtaining procedural information, please write to the Secretary of the Commission.

Nonjurisdictional Facilities

PECO plans to construct a new meter station near MP 10 on Line 1–A, regulation and heating facilities at the new Brookhaven M&R Station, and a new 24-inch-diameter distribution line, of an unspecified length, downstream from the Brookhaven M&R Station to connect its existing distribution pipeline.

Land Requirements for Construction

a. Line 1–A Upgrading

The repair of the anomaly sites would temporarily disturb 91 areas within the existing permanent right-of-way, totaling about 30.94 acres. Hydrostatic testing of Line 1–A would disturb six manifold sites within the existing permanent right-of-way, totaling about 2.04 acres. Each of these 97 areas would be about 75-feet-wide and 200-feet-long.

A 5.2-acre staging area, a 3.0-acre wareyard, and a 0.12-acre staging area would be required at off-right-of-way locations. These areas would be temporarily disturbed, and would be restored to their original grade and reseeded.

b. Aboveground Facilities

Regulating and pig launching facilities would be installed at the existing Eagle Compressor Station. A 150-foot by 150-foot area (0.52 acre) would be disturbed to install the Brookhaven M&R Station, that includes a pig receiver, within the existing Chester Junction Facility aboveground site. The proposed mainline valves would require 20 feet by 30 feet within the existing right-of-way (0.014 acre each).

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- geology and soils
- water resources, fisheries, and wetlands
- vegetation and wildlife
- endangered and threatened species
- public safety
- land use
- cultural resources
- air quality and noise
- hazardous waste

We will also evaluate possible alternatives to the proposed project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commissions official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention

[1] Texas Eastern Transmission Corporation's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] Mileposts are approximate.

[3] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies are available from the Commission Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

based on a preliminary review of the proposed facilities and the environmental information provided by Texas Eastern. This preliminary list of issues may be changed based on your comments and our analysis.

- Three state designated high-quality coldwater fisheries and three waterbodies used by migratory fishes would be crossed.
- A total of 12.03 acres of wetlands would be temporarily affected and 0.2 acre of wetlands would be permanently affected.
- Certain anomaly locations possess a high probability of containing prehistoric or historic archaeological sites or historic structures.
- Line 1–A is part of the War Emergency Pipeline System which has been determined to be eligible for the National Register of Historic Places.
- Twenty-eight residences are within 100 feet of the pipeline centerline.
- The Ridley State Park and a private golf course associated with the Hershey Mills Retirement Community would be crossed.
- The bog turtle (a candidate for Federal listing) may be affected.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Send two copies of your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Reference Docket No. CP97–276–000; and
- Mail your comments so that they will be received in Washington, DC, on or before July 21, 1997.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2). You do not need intervenor status to have your comments considered.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16622 Filed 6–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Western Area Power Administration

Proposed Salt Lake City Area Integrated Projects Firm Power Rate and Colorado River Storage Project Transmission and Ancillary Services Rates Adjustments

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed rate adjustments.

SUMMARY: The Western Area Power Administration's (Western) Colorado River Storage Project (CRSP) Customer Service Center (CSC) is proposing rates (Proposed Rates) for long-term sales of Salt Lake City Area Integrated Projects (SLCA/IP) firm power, CRSP transmission service, and ancillary services. The current firm power rate expires November 30, 1999. The current firm transmission rate expires September 30, 1997, but is expected to be extended for 1 additional year, through September 30, 1998, or until superseded by the proposed firm point-to-point transmission rate. The proposed rates will provide sufficient revenue to pay all annual costs, including operation, maintenance, replacement, and interest expenses, and to repay investment and irrigation assistance obligations within the required period. The rates and their impacts are explained in greater detail in a rate brochure to be provided to all interested parties. The proposed rates are scheduled to go into effect on April 1, 1998. This **Federal Register** notice initiates the formal process for the proposed rates.

DATES: The consultation and comment period will begin on the date of publication of this **Federal Register** notice and will end September 23, 1997. The public information forums and public comment meeting dates are:

1. Public information forum—August 1, 1997, 1 p.m., Salt Lake City, Utah; Public comment forum—September 19, 1997, 1 p.m., Salt Lake City, Utah.
2. Public information forum—August 5, 1997, 1 p.m., Golden, Colorado; Public comment forum—September 16, 1997, 1 p.m., Golden, Colorado.
3. Public information forum—August 6, 1997, 1 p.m., Albuquerque, New Mexico; Public comment forum—September 17, 1997, 1 p.m., Albuquerque, New Mexico.
4. Public information forum—August 7, 1997, 1 p.m., Phoenix, Arizona; Public comment forum—September 18, 1997, 1 p.m., Phoenix, Arizona.

ADDRESSES:

1. Doubletree Hotel (Previously Red Lion), 255 South West Temple, Salt Lake City, Utah.
2. Marriott Denver West, 1717 Denver West Boulevard, Golden, Colorado.
3. Albuquerque Marriott, 2101 Louisiana Boulevard NE, Albuquerque, New Mexico.
4. Western Area Power Administration, Desert Southwest Region, 615 South 43rd Avenue, Phoenix, Arizona.

Western must receive written comments by the end of the consultation and comment period to be assured consideration. Oral comments will be received at the public comment meetings. Written comments are to be sent to: Mr. David Sabo, CRSP Manager, CRSP Customer Service Center, Western Area Power Administration, P.O. Box 11606, Salt Lake City, Utah, 84121-0606, or e-mail sabo@wapa.gov.

FOR FURTHER INFORMATION CONTACT: Carol Tafoya-Loftin, Rates Manager, CRSP Customer Service Center, Western Area Power Administration, P.O. Box 11606, Salt Lake City, Utah, 84121–0606, (801) 524–6380; e-mail: tafoya@wapa.gov, or visit CRSP CSC's home page at: www.wapa.gov/crsp/crsp.htm.

Proposed Rate for SLCA/IP Firm Power

SLCA/IP Firm Power Rate

The proposed rate for SLCA/IP firm power is designed to recover an annual amount of revenue requirement that includes the repayment of power investment, payment of interest, purchased power, operation, maintenance and replacement expenses, and the repayment of irrigation assistance costs, as required by law.

The Deputy Secretary of the Department of Energy (DOE) approved the existing Rate Schedule SLIP–F5 for SLCA/IP firm power on October 25, 1994 (Rate Order No. WAPA–63). The Federal Energy Regulatory Commission (FERC) confirmed and approved the rate schedule on April 1, 1996, in FERC Docket No. EF95–5171–000. The existing Rate Schedule will expire on November 30, 1999. Under Rate Schedule SLIP–F5, the energy rate is 8.9 mills/kWh, and the capacity rate is $3.83 per kW-month. The composite rate (revenue requirements per kWh) is

20.17 mills/kWh. The proposed rate for SLCA/IP firm power is 8.20 mills/kWh for energy and $3.48 per kW-month for capacity. The proposed composite rate is 17.75 mills/kWh. This firm power rate is to be applied to all firm power customers, and is to become effective April 1, 1998.

Although the proposed composite rate reflects a decrease from the existing composite rate, the net effect does not necessarily result in an equivalent reduction in cost to the SLCA/IP firm power contractors. Two primary factors account for this decrease. First, annual net revenue requirements have reduced by $6.4 million. Second, due to constraints at Glen Canyon Dam, as a result of the long-term Glen Canyon Dam Operating Criteria, and generating constraints on other SLCA/IP facilities, the contractor will normally be receiving less Federally generated resource during on-peak hours. In order to receive its full SLCA/IP resource allocation the contractor must purchase replacement power from other sources through Western Replacement Power (WRP) and/or Customer Displacement Power (CDP) as outlined in amended contracts with Western. In addition to the actual costs of the replacement power purchased on the open market, the contractor will pay the incremental administrative costs that Western incurs for providing this service. Due to the restrictions of the Federal hydro facilities and resulting replacement resource costs, the total overall costs to the contractors may in fact increase.

Lastly, the proposed firm power rate does not include pension benefits from Civil Service Retirement System and health benefits, which were included in the last rate adjustment. The inclusion of these costs will depend upon the outcome of a final legal decision of Western's authority to include these costs in the rate base. Should these costs be included, it is anticipated that they will increase the composite rate by .07 mills/kWh.

WRP and CDP Administrative Charges

The first year the WRP and CDP replacement options are effective, April 1, 1998, through March 31, 1999, will be considered the base year for cost determination. Estimated costs for charges will be used during the base year. Prior to and during the base year, Western, in consultation with Colorado River Energy Distributors Association (CREDA) and other interested SLCA/IP firm power customers, will develop a method for tracking actual incremental WRP and CDP administrative costs. Subsequent years' charges will be based upon base year costs and streamlining experiences.

Adjustment Clauses Associated With the Proposed Rates for SLCA/IP Firm Power

Transformer Losses Adjustment

This provision contained in Rate Schedule SLIP–F5 will remain the same under the proposed rates for SLCA/IP firm power.

Power Factor Adjustment

This provision contained in Rate Schedule SLIP–F5 will remain the same under the proposed rates for SLCA/IP firm power.

Purchased Resources Adjustment

This provision contained in Rate Schedule SLIP–F5 will remain the same under the proposed rates for SLCA/IP firm power; however, it will be applicable only to those contractors who are not receiving service under the amendment to the firm power sales contract effective April 1, 1997.

WRP Adjustment

Each contractor electing to receive WRP will pay for its share of the incremental administrative costs Western incurs as a direct result of providing this service to the firm SLCA/IP power contractor. The contractor will also pay for its proportionate share of the costs of the purchased replacement resource. These costs are not included in the firm power base rate.

CDP Adjustment

Each contractor electing to receive CDP will pay for its share of the incremental administrative costs Western incurs as a direct result of providing this service to the contractor. This cost is not included in the firm power base rate.

Proposed Rates for CRSP Transmission

The proposed rates for CRSP transmission service are based on a revenue requirement that recovers: (i) The CRSP transmission system investment and interest costs for facilities associated with providing all transmission service; and (ii) the operation, maintenance, and replacement costs allocated to transmission service. These revenue requirements are offset by appropriate CRSP transmission system revenues. The proposed rates are applicable to existing and future CRSP point-to-point transmission service.

The rates for CRSP transmission service include the cost for scheduling, system control, and dispatch service.

Firm Point-to-Point

The firm point-to-point rate is based on revenue requirements of a 5-year cost evaluation period. CRSP transmission related investments are annualized. Transmission-related annual costs such as operation, maintenance and replacements and interest costs to arrive at the total annual transmission cost need to be recovered. The annual costs are reduced by revenue credits such as non-firm wheeling revenues and phase shifter revenues. The resultant net annual cost to be recovered is divided by the capacity reservation needed to meet firm power and transmission commitments in kW to derive a cost/kW-year. This is done for 5 future years, the results averaged, and the cost/kW-year average used as the firm point-to-point transmission rate. The proposed rate for firm point-to-point CRSP transmission service is $2.07 per kW-month for 1998, beginning April 1, 1998. This proposed rate may be adjusted each year by a recalculation based on the formula below, as needed. The rate formula is expected to be in effect until March 31, 2003.

The cost/kW-year is calculated using the following formula:

$$\text{Total Annual Costs} - \frac{\text{Total Revenue Credits}}{\text{Total Net Annual Costs to recover}} \div \frac{\text{Total Firm Capacity reservations}}{\text{Unit Cost/Year (\$/kW-year)}}$$

Non Firm Point-to-Point Rate

The proposed rate for non firm point-to-point CRSP transmission service is a kWh rate based on market conditions but never higher than the firm point-to point rate. This rate will remain in effect concurrently with the firm point-to-point rate.

Network Transmission Service Rate

The proposed rate for network transmission, if offered by CRSP CSC, would be consistent with the CRSP CSC

Tariff Equivalent Package, and the rate methodology in FERC Order 888.

Western is not currently providing network transmission on its CRSP transmission system and only has available transmission capacity on isolated portions of the CRSP transmission system.

Proposed Rates for Ancillary Services

Western will provide ancillary services, subject to availability, as described below and as listed in Table 1. The proposed rates are designed to recover only the costs incurred for providing the service(s).

It is anticipated that in June 1998, the Western Area Upper Colorado (WAUC) control area, within which most of the CRSP transmission system lies, currently operated by the CRSP CSC, will be merged into two other control areas, the Western Area Colorado Missouri (WACM) control area operated by Western's Rocky Mountain Region (RMR) and the Western Area Lower Colorado (WALC) control area operated by Western's Desert Southwest Region (DSWR).

Proposed Rate for Scheduling, System Control, and Dispatch Service

Scheduling, system control, and dispatch costs are accumulated as an annual cost of all personnel and other related costs involved in providing the service for the CRSP CSC. That cost is divided by the number of yearly schedules performed to derive a rate per schedule. Up to five schedule changes per transaction per day are allowed at no extra charge.

The proposed rate will be applied to all schedules which must be pre-scheduled and/or real-time dispatched within or out of the WACM control area and do not pertain to a SLCA/IP firm electric service or CRSP transmission schedule.

The rate for the WAUC control area is $21.35 per schedule per day and will be in effect only until the WAUC control area merges. At that time, the tariffs developed by Western's RMR and DSWR Regions as operators of the WACM and WALC control areas, respectively, will apply.

Proposed Rate for Reactive Supply and Voltage Control

Applicable tariffs are being developed by Western's RMR and DSWR Regions as operators of the WACM and WALC control areas, respectively, in which CRSP transmission facilities reside. This ancillary service is not included in any CRSP CSC transmission service rate, and the CRSP transmission customer will be required to purchase this service from RMR and/or DSWR.

Proposed Rate for Regulation and Frequency Response Service

The CRSP CSC may obtain regulation on the open market for the customer and pass through the cost, with an added 10 percent administrative charge, if regulation is unavailable from SLCA/IP facilities. If the CRSP CSC has regulation available for sale, based on hydrological conditions, it will charge the SLCA/IP firm power capacity rate currently in effect. The transmission customer serving loads within the transmission provider's control area is required to acquire this ancillary service either from Western, from a third party, or by self supply.

Proposed Rate for Energy Imbalance Service

The energy imbalance tariff will be based on a ±2.5 percent deadband, with a maximum of five deviations outside the band per month. Net deviations within the deadband limits will be accumulated through the time period. Energy imbalance will be settled on a seasonal basis, either in cash or energy return as mutually agreed upon. Energy returns will be returned in like hours, onpeak for onpeak and offpeak for offpeak. Cash settlements will be based on SLCA/IP's average like-hour purchase costs during the season. Positive or negative excursions outside the deadband greater than the five times per month maximum will be assessed a penalty charge of 100 mills/kWh. This rate will not apply under system emergency conditions. This ancillary service is not included in any CRSP CSC transmission service rate. The transmission customer serving loads within the transmission provider's control area is required to acquire this ancillary service either from Western, from a third party, or by self supply.

Proposed Rate for Operating Reserve—Spinning Reserve Service

It is unlikely that spinning reserves will be available from SLCA/IP resources. If spinning reserves are unavailable from SLCA/IP resources, the CRSP CSC may obtain spinning reserves on the open market for the customer and pass through the cost, with an added 10 percent administrative charge.

If the CRSP CSC has spinning reserves available for sale from SLCA/IP resources, it will charge the SLCA/IP firm power capacity rate currently in effect. Energy taken with the spinning reserve capacity will be settled on a seasonal basis, either in cash or energy as mutually agreed upon. Energy returns will be returned in like hours, onpeak for onpeak and offpeak for offpeak, unless otherwise mutually agreed. Cash settlements will be based on SLCA/IP's average like-hour purchase costs during the season.

This ancillary service is not included in any CRSP CSC transmission service rate. The transmission customer serving loads within the transmission provider's control area is required to acquire this ancillary service either from Western, from a third party, or by self supply.

Proposed Rate for Operating Reserve—Supplemental Reserve Service

It is unlikely that supplemental reserves will be available from the SLCA/IP resources. If supplemental reserves are unavailable from SLCA/IP resources, the CRSP CSC may obtain supplemental reserves on the open market for the customer, and pass through the cost, with an added 10 percent administrative charge.

If the CRSP CSC has supplemental reserves available for sale from SLCA/IP resources, it may charge the SLCA/IP firm power capacity rate currently in effect. Energy taken with the supplemental reserve capacity will be settled on a seasonal basis, either in cash or energy as mutually agreed upon. Energy returns will be returned in like hours, onpeak for onpeak and offpeak for offpeak, unless otherwise mutually agreed. Cash settlements will be based on SLCA/IP's average like-hour purchase costs during the season.

This ancillary service is not included in any CRSP CSC transmission service rate. The transmission customer serving loads within the transmission provider's control area is required to acquire this ancillary service either from Western, from a third party, or by self supply.

TABLE 1.—PROPOSED ANCILLARY SERVICE RATES

Type of ancillary service	Rate
Scheduling, System Control and Dispatch—is required to schedule the movement of power through, out of, within, or into a control area.	WAUC control area—$21.35/schedule/day (until merged). After consolidation, the WALC and/or WACM charges will apply.

TABLE 1.—PROPOSED ANCILLARY SERVICE RATES—Continued

Type of ancillary service	Rate
Reactive Supply and Voltage Control—is reactive power support provided from generation facilities that is necessary to maintain transmission voltages within acceptable limits of the system.	DSWR and/or RMR Tariff.
Regulation and Frequency Control—is providing generation to match resources and loads on a real-time continuous basis.	Market price plus 10 percent administrative charge or, if available, current firm power capacity rate.
Energy Imbalance Service—is provided when a difference occurs between the scheduled and actual delivery of energy to a load or from a generation resource within a control area over a single month.	Deviations are accumulated at the end of the season and are to be exchanged with like hours of energy or charged at the average purchase rate, plus a penalty of 100 mills/kWh.
Spinning Reserve Service—is providing capacity that is available the first 10 minutes to serve load and is synchronized with the power system.	Market price plus 10 percent administrative charge or, if available, current firm power capacity rate.
Supplemental Reserve Service—is providing capacity that is not synchronized, but can be available to serve loads within 10 minutes.	Market price plus 10 percent administrative charge or, if available, current firm power capacity rate.

Since the proposed rates constitute a major rate adjustment as defined at 10 CFR § 903.2, both public information forums and public comment forums will be held. After review of public comments, Western will recommend the proposed rates or revised proposed rates for approval on an interim basis by the Deputy Secretary of DOE.

The proposed SLCA/IP firm power, CRSP transmission, and ancillary service rates are being established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*) and the Reclamation Act of 1902 (43 U.S.C. 371 *et seq.*), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and other acts specifically applicable to the projects involved.

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of DOE delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of Western; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the FERC. Existing DOE procedures for public participation in power rate adjustments are found at 10 CFR part 903.

Availability of Information

All brochures, studies, comments, letters, memoranda, and other documents made or kept by Western for developing the proposed rates are and will be made available for inspection and copying at the CRSP Customer Service Center, at 257 East 200 South, Suite 475, Salt Lake City, Utah 84111.

Regulatory Procedure Requirements

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the initiation of the SLCA/IP firm power rate, CRSP transmission rate and ancillary service rate adjustments are related to nonregulatory services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rules of particular applicability relating to rates or services are not considered rules within the meaning of the act. Since the SLCA/IP firm power rate, CRSP transmission rates and ancillary service rates are of limited applicability, no flexibility analysis is required.

Environmental Evaluation

In compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations (40 CFR parts 1500 through 1508); and the DOE NEPA Regulations (10 CFR part 1021), Western has determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

DOE has determined that this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735, and Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by Office of Management and Budget is required.

Dated: June 13, 1997.

J.M. Shafer,

Administrator.

[FR Doc. 97–16644 Filed 6–24–97; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5847–3]

Agency Information Collection Request: Measuring Success of Compliance Assistance Centers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Measuring the Success of Compliance Assistance Centers. Before submitting the ICR to OMB for review, EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before August 25, 1997.

ADDRESSES: Lynn Vendinello (2224A) Office of Compliance, US EPA, 401 M St. SW., Washington, DC 20460. Interested persons may obtain a copy of the ICR without charge by calling Lynn Vendinello at 202–564–7066 or vie e-mail at vendinello.lynn@epamil.epa.gov.

FOR FURTHER INFORMATION CONTACT: Lynn Vendinello, 202–564–7066 or vendinello.lynn@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those small businesses and technical assistance providers who are current users of the

compliance assistance Centers as well as potential users of the Centers. Technical assistance providers are comprised of such groups as: state pollution prevention programs, state small business assistance programs, small business development centers, manufacturing extension partnership programs, and trade associations. The request for information from these affected entities will be voluntary.

Title: Program Evaluation for the Compliance Assistance Centers. (OMB Control No. XXXX–XXXX: EPA ICR No. 1758.02). This is a new collection.

Abstract: This will be a voluntary collection of information to gather feedback on the Presidential Regulatory Reinvention Initiative: Small Business Compliance Assistance Centers. This effort complies with the mandate of the ''Government Performance and Results Act of 1997'', the goal of which is to ''improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction.'' The Compliance Assistance Centers are a regulatory reinvention initiative that aims to improve small businesses' environmental performance by facilitating their access to easily-understandable compliance information, enabling them to make educated business decisions towards improving their compliance status. EPA has adopted this approach as part of its expansion of compliance assistance, as a complement to its ongoing strong enforcement program; as such, it is critically important to learn if these Centers do improve small businesses' environmental performance.

The Centers are communications-based rather than physical locations. Via the Internet, toll-free numbers, computer-based list servers, training, videoconference downlinks and other communications methods, the Centers provide easy access to: (1) Industry-specific multi-media environmental regulatory information; (2) compliance assessment tools; (3) a place to ask questions and get answers about compliance obligations; and (4) searchable databases on technologies that can help small businesses comply. The Centers serve two clients: small businesses themselves and their assistance providers. They are run, using cooperative assistance agreements between EPA, industry, states, universities, trade associations and other partners that small businesses trust to go to for compliance and technical information. Currently there are four operating Centers which serve the following sectors: printing, auto service and repair, metal finishing, and the agriculture community. Over the next year, the program will be expanded to include Centers for printed wiring board manufacturers, small chemical manufacturers, local governments, and transportation facilities.

In order to comply with GPRA, the Office of Compliance needs to collect certain information that is currently not collected and which does not exist in our current databases. In accordance with Government Performance and Results Act, which ask that Federal Agencies determine the outcomes of their activities, EPA would like to determine if the Centers are achieving the goal of facilitating small businesses' understanding of their federal regulatory requirements as well as improving technical assistance providers' understanding of the industries they serve. In order to determine the extent to which the small business community are being reached, the users of our web sites would be asked to identify themselves by name or by category (e.g. printer, trade association, government agency). In order to adjust the Centers' services to best fit their clients' needs, Center users would be asked to provide feedback on the services of the Centers that are most useful to them. Moreover, although awareness and usefulness are important measures of effectiveness, the most critical measure of effectiveness is what actions Center users take to improve their compliance status and environmental performance.

The EPA is soliciting comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: EPA is interested in three types of voluntary information collections: (1) User identification of Centers' web sites and toll-free numbers by type of user (e.g. shop owner, technician, consultant, state agency, etc. * * *) to determine the reach of the Centers within their respective small business and assistance provider communities. (2) 5-minute phone-surveys of a random sample of the target audiences for each Center to determine their awareness of the Centers program. This survey will be administered once for each of the four existing Centers and once for each of the new Centers six months after they are operational. (3) On-line/fax-back 5-minute surveys of Center web site and toll free number users to get feedback on the program and to determine what Center users do as a next step with the information they acquire from a compliance assistance Center. This survey will be administered twice a year for each of the Centers.

The Census Bureau, who is likely to conduct the phone surveys, has calculated the necessary sample size for each of the Centers for each type of survey. For the phone surveys, Census will need to make 500 calls for each of the Centers to obtain the necessary 400 responses. For the chemical Center, local government Center and transportation Center, where the sectors represented are quite diverse, a larger sample size is needed in order to differentiate between the different types of users (e.g. pharmaceutical versus inorganic chemical manufacturer). For the on-line/fax-back surveys, the survey will be taken off-line upon receipt of 500 respondents (EPA will not be able to differentiate among respondents since EPA will not know who the users are). In both cases, the identity of the respondents will be kept confidential. Only aggregate data will be supplied to the Agency by Census and the Center grantees who will administer the on-line/fax-back surveys. The amount of time necessary to record the type of new user on the web site is negligible so no separate burden estimate is calculated.

In addition to small business users, the Centers also aim to better familiarize state and local technical assistance providers with industry-specific processes. EPA estimates that each state has about 10 technical assistance programs or 500 nationwide. Census has determined that the required sample size for this population would be 150. This Center audience will receive one annual phone-survey that covers all of the Centers, since many are interested in more than one industry sector. The annual public reporting burden for this overall collection is estimated to be 503 hours. The total annual estimated number of respondents is 6050.

The average annual burden per respondent for both the on-line and phoned survey is .08 hours or 5 minutes. The frequency of response for the phone surveys is annual. The

frequency of response for the on-line/fax-back survey is biannually. The total annual cost burden is $16,626. No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: June 12, 1997

Elaine Stanley,

Director.

[FR Doc. 97–16652 Filed 6–24–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00488; FRL–5728–6]

State FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) will hold a 2-day meeting, June 30, and July 1, 1997. This notice announces the location and times for the meeting and sets forth the tentative agenda topics. The meetings are open to the public.

DATES: The State FIFRA Issues Research and Evaluation Group (SFIREG) will meet on Monday, June 30, 1997, from 8:30 a.m. to 5:00 p.m. and Tuesday, July 1, 1997, from 8:30 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at the National Airport Doubletree Hotel, 300 Army Navy Dr., Arlington-Crystal City, VA 22202.

FOR FURTHER INFORMATION CONTACT: By mail: Elaine Y. Lyon, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: (703) 308–5306; (703) 308–1850 (fax); e-mail: lyon.elaine@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG includes the following:

1. Implementation status of the Food Quality Protection Act - includes:
   i. Section 18 rule
   ii. Minor use discussions with USDA
   iii. Tolerances expiring (Agency approach)
   iv. Use of the Pesticide Program Dialogue Committee workgroups on some of the implementation issues. (Includes an update from each workgroup committee co-lead).
2. Worker protection standard update.
3. Consumer labeling initiative update.
4. Bee labeling update.
5. Tribal programs.
6. Government Performance and Results Act.
7. Outcome of endangered species workshop.
8. Regional reports and introduction of issue papers.
9. Discussion of issues papers.
10. Data harmonization.
11. Other topics as appropriate.

List of Subjects

Environmental protection.

Dated: June 19, 1997.

Jay S. Ellenberger,

Acting Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 97–16654 Filed 6–24–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5847–4]

Announcement of stakeholders Meeting on Technologies for Small Drinking Water Systems

AGENCY: Environmental Protection Agency.

ACTION: Notice of Stakeholders meeting.

SUMMARY: The U.S. Environmental Protection Agency (EPA) has scheduled a two-day public meeting on EPA's development of the List of Compliance Technologies for Small Drinking Water Systems. The purpose of this meeting is to have a dialogue with stakeholders and the public at large on the process of determining Compliance Technologies for Small Drinking Water Systems. The Safe Drinking Water Act (SDWA) Amendments of 1996 (1412(b)(4)(E)(v)) required EPA to publish within 1 year a list of technologies for small systems that meet the Surface Water Treatment Rule (SWTR). The SDWA Amendments of 1996 (11412(b)(4)(E)(ii)) also required EPA to identify technologies that are affordable and which can achieve compliance for categories of systems serving fewer than 10,000 when EPA promulgates new national primary drinking water regulations. At the upcoming meeting, EPA is seeking input from national, State, Tribal, municipal, and individual stakeholders and other interested parties on the list of technologies for the SWTR and on the process of developing national level affordability criteria. EPA encourages the full participation of stakeholders throughout this process.

DATES: The stakeholders meeting on Technologies for Small Drinking Water Systems will be held on July 22–23, 1997. The meeting will run from 8:30 a.m to 5:00 p.m. EDT on Tuesday, July 22, and from 8:30 a.m. to 1:00 p.m. EDT on Wednesday, July 23.

ADDRESSES: The meeting will be held at RESOLVE, 1255 23rd Street, N.W., Washington, D.C. 20037. For additional information, please contact the Safe Drinking Water Hotline, at phone: (800) 426–4791, fax: (703) 285–1101, or by e-mail at <hotline-sdwa@epamail.epa.gov>. Members of the public wishing to attend the meeting may register by phone by contacting the Safe Drinking Water Hotline by July 8, 1997. Those registered for the meeting by July 8 will receive background materials prior to the meeting. Members of the public who cannot attend the meeting in person may participate via conference call and should register with the Safe Drinking Water Hotline by July 8 as well. Members of the public who cannot participate via conference call or in person may submit comments in writing by August 12, 1997 to Tara Cameron, at the U.S. Environmental Protection Agency, 401 M St, SW (4607), Washington, DC, 20460.

FOR FURTHER INFORMATION CONTACT: For general information about the meeting logistics, please contact the Safe Drinking Water Hotline, at phone: (800) 426–4791, fax: (703) 285–1101, or by e-mail at: <hotline-sdwa@epamail.epa.gov>. For other information on Technologies for Small Drinking Water Systems please contact Tara Cameron, at the U.S. Environmental Protection Agency, Phone: (202) 260–3702, Fax: (202) 260–3762.

SUPPLEMENTARY INFORMATION:

A. Background

The SDWA, as amended in 1996, states that: Not later than 1 year after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall publish a Compliance Technology List for the SWTR for Small Systems. The new Amendments specifically direct EPA to focus on three small system population size categories: systems serving 10,000–3,301; 3,300–501; and 500–25. For each size category, EPA shall list treatment

technologies that can achieve compliance with the existing regulations. For future regulations, EPA must determine affordable treatment technologies that can achieve compliance for each of the size categories. Within 2 years of the SDWA Amendments of 1996, EPA must list technologies that achieve compliance with all existing regulations. The List of Compliance Technologies for Small Drinking Water Systems to meet the present SWTR is required to be published by August 1997.

B. Request for Stakeholder Involvement

The upcoming meeting deals specifically with EPA's efforts to compile the initial list of compliance technologies for the SWTR. EPA would like to review the initial list of compliance technologies with stakeholders as well as obtain their inputs on additional technologies that should be considered when EPA updates this list in a year.

The meeting will be divided into two parts. The first part involves getting feedback from stakeholders on the EPA proposed list of Compliance Technologies for the SWTR which will be distributed in the background materials to those registered for the meeting. The second part involves getting ideas and insights from stakeholders on approaches to the national level affordability criteria that will be used to determine which pathway (compliance technology or a variance) a system will proceed along and which technologies would be available for the system. The issues on affordability criteria do not apply to the first list of technologies for the SWTR; however, they will apply to future rules and EPA therefore wants to begin to get input on these issues.

The specific issues for discussion at the meeting will be based on the above-mentioned material and will include (but may not be limited to) the following:

1. The compliance technologies for the filtration component of the SWTR will include some technologies that would fall under the ''other filtration technologies'' as per § 141.73(d). The pilot testing for viability would be waived for those technologies on the compliance technology list. These technologies would be treated like the filtration technologies in § 141.73(a)–(c). Testing to ensure that the system is capable of operating the treatment technology may still be required for these other filtration technologies and the technologies directly identified in the SWTR. What are the stakeholder's opinions about this approach for the other filtration technologies?

2. Are there Point-Of-Entry units available that could be used to meet the requirements of the Surface Water Treatment Rule? Is it a manageable option?

3. The primary role of the national-level affordability criteria is to direct a system either into a compliance technology pathway or a variance technology pathway. If the national-level affordability criteria are set very high, then the variance technology pathway will be limited or eliminated and systems will need to install compliance technologies. If the national-level affordability are set very low, the compliance technology pathway will be limited or eliminated and more systems will operate under small system variances. What components should be included in the national-level affordability criteria? What is the best measure of national-level affordability?

4. The initial list of compliance technologies will be similar to the list of disinfection and filtration technologies in the SWTR. What level of detail would stakeholders like to see on the compliance technologies when the list is updated in August, 1998? Is the compliance technology list the best mechanism to incorporate applicability ranges?

5. Do stakeholders recommend any specific criteria for distinguishing treatment applications, in relation to the 3 small system categories specified under SDWA? Would design, operational and management capability, chemical reactivity and/or a hazard posed by some technologies (e.g., chlorine dioxide, chlorine gas) be good parameters to consider within the <10,000 population PWS categories?

The public is invited to provide comments on the issues listed above and other issues related to the List of Compliance Technologies for Small Drinking Water Systems and the Affordable Criteria during the July 22–23, 1997 meeting or in writing by August 12, 1997.

Dated: June 19, 1997.

Cynthia Dougherty,

Director, Office of Ground Water and Drinking Water, Environmental Protection Agency.

[FR Doc. 97–16653 Filed 6–24–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–736; FRL–5719–6]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–736, must be received on or before July 25, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager/Regulatory Leader	Office location/telephone number	Address
Elizabeth Haeberer	Rm. 207, CM #2, 703–308–2891, e-mail:haeberer.elizabeth@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Indira Gairola (Reg. Leader).	4th floor, CS #1, 703–308–8371, e-mail: gairola.indira@epamail.epa.gov.	2800 Crystal Drive, Arlington, VA

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–736] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF–736] and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 9, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Gaylord Chemical Corporation

PP 5E4592

EPA has received a Supplement to a Petition (PP 5E4592) from Gaylord Chemical Corporation, P.O. Box 1209, Slidell, LA 70459-1209, proposing, pursuant to section 408(d)(3) the Federal Food, Drug and Cosmetic Act, 21 U.S. C. section 346a(d), to amend 40 CFR 180.1001(d) to extend the existing exemption from a tolerance for residues of the inert ingredient DMSO [dimethyl sulfoxide] by permitting its use in pesticide formulations applied to the edible parts of food or feed crops. DMSO may currently be used as a solvent or cosolvent in end-use pesticides that are applied before crop emergence or prior to the formation of edible parts of food plants.

Dimethyl sulfoxide (DMSO) is widely used as a solvent in industry, in chemical and biochemical research, and in medicines. DMSO readily penetrates the skin and has proven to be an effective carrier of various pharmaceutical agents into the body. It is currently used in veterinary medicinal formulations as well as being used medicinally in its own right. DMSO has been shown to relieve pain and reduce swelling when applied dermally to acute sprains and strains. It is approved for a variety of human prescriptions in over 125 countries. In the United States, DMSO is FDA-approved for treatment of musculoskeletal injuries in horses, acute or chronic otitis in dogs, and interstitial cystitis in humans. In Canada, DMSO is approved for the treatment of scleroderma while in Germany it is approved for the treatment of sports injuries and in the United Kingdom for treatment of herpes zoster.

On August 21, 1995, Gaylord Chemical Corporation (Gaylord) submitted to the EPA a tolerance exemption petition (PP 5E4592) entitled ''Petition for Extension of Existing Exemption from Tolerance for the Inert Ingredient, DMSO''. That petition proposed to amend 40 CFR part 180.1001(d) by allowing DMSO to be applied to the edible parts of food and feed crops when used in end-use pesticide formulations as a solvent or a cosolvent at up to 10 percent of finished sprays or tank mixes. Gaylord now proposes to amend their petition to clarify that DMSO is intended for applications at not more than 5 lbs. DMSO per acre when used as a solvent or cosolvent in end-use pesticide formulations applied to the edible parts of food and feed crops.

Pursuant to the section 408(d)(2)(A)(i) of the FFDCA, as amended, Gaylord Chemical Corporation has submitted the following summary of information, data and arguments in support of their tolerance exemption petition. This summary was prepared on behalf of Gaylord Chemical Corporation and EPA has not fully evaluated the merits of the petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary was not clear that it reflected the conclusion of the petitioner and not necessarily EPA.

Based on petition PP 5E4592, as amended, by the supplemental information presented herein, Gaylord Chemical Corporation concludes that the expanded use of DMSO in pesticide end-use formulations applied to the edible parts of food and feed crops will not result in DMSO dietary exposures of toxicological consequence for the following reasons: (1) DMSO is widely distributed and naturally-occurring in plants and the environment; (2) DMSO is extensively metabolized by plants following either root or foliar uptake; (3) When ingested or dermally applied,

DMSO is practically non acutely toxic, nor is it genotoxic or carcinogenic; (4) DMSO is rapidly metabolized and excreted by animals and humans without any evidence of bioaccumulation; (5) DMSO is not anticipated to cause any cumulative effects; and (6) There is no evidence that DMSO is an endocrine disruptor.

A. Proposed Use Practices of DMSO

DMSO is a pesticidally inert ingredient that currently is exempted [40 CFR (180.1001(d)] from the requirement of a tolerance for residues when used as a solvent or cosolvent in pesticide formulations applied before crop emergence from the soil or prior to formation of edible parts of food plants. There are no other limits for DMSO expressed in 40 CFR (180.1001(d). The proposed amended use would allow DMSO applications at not more than 5 lbs. DMSO per acre when used as a solvent or cosolvent in end-use pesticide formulations applied to the edible parts of food and feed crops.

B. Natural Occurrence of DMSO

Researchers have estimated that approximately 20 - 60 billion pounds of DMSO are created in the atmosphere each year from naturally-occurring, atmospheric dimethyl sulfide (DMS). DMSO is also found in natural waters, where it is believed to be produced by photochemical oxidation of dimethyl sulfide (DMS) generated by algae and phytoplankton. There is also evidence that DMSO is found naturally in soils and is metabolized by a variety of microorganisms, resulting in volatilization of sulphur from soil.

Naturally-occurring DMSO has been identified in alfalfa, asparagus, barley, beans, beets, cabbage, corn, cucumbers, oats, onions, Swiss chard, tomatoes, apples, raspberries, spearmint, beer, milk, coffee and tea. DMSO concentrations in fresh fruit, vegetables and grains ranged from undetectable (<0.05 parts per million (ppm) to 1.8 ppm. In processed products such as sauerkraut or tomato paste, concentrations of DMSO ranged from <0.05 to 3.7 ppm. DMSO was also found in milk (0.13 ppm), lager beer (1.4 ppm), coffee (2.6 ppm) and black tea (16.0 ppm). In forage crops such as alfalfa and corn silage, DMSO levels were 0.17 and 0.31 ppm, respectively.

C. Product Identity/Chemistry

1. *Identity of inert compound and corresponding residues.* Dimethyl sulfoxide (CAS number 67–68–5) is commonly known and abbreviated as DMSO. Other names for DMSO are sulfinylbismethane and methyl sulfoxide. The molecular weight of DMSO is 78.13, the empirical formula is C2H6SO, and the structural formula is (CH3)2SO. DMSO is a very hygroscopic liquid with practically no odor or color. Residues of DMSO include DMSO2 (dimethyl sulfone) and DMS (dimethyl sulfide).

2. *Plant metabolism*. The metabolism of DMSO in plants is well understood. Extensive studies have shown that: (1) DMSO is absorbed by plant roots and foliage; (2) translocation of DMSO is primarily upward and associated with the transpirational stream; (3) metabolism of DMSO is primarily occurs in the foliage; (4) DMSO is metabolized to DMSO2 by oxidation, to volatile DMS by reduction and to components that are incorporated into sulfur-containing amino acids and proteins; (5) DMSO does not accumulate in plant tissues; and (6) the amount of residue is dependent on the time since application.

3. *Analytical methods*. Validated analytical methods for residues of DMSO in or on plant and animal tissues are available. DMSO is extracted from the samples, analyzed by gas chromatography using a flame photometric detector operating in the sulfur mode and quantified by comparison to external standards.

4. *Magnitude of the residues*. In 1 study, 15 food or feed crops were treated with DMS35O at a rate of 5 lbs per acre 24 hours before harvest. The maximum total radioactive residue (TRR) found in forage crops was 39.16 ppm. Among the food crops, grain from fall-planted barley had maximum total S35 residues (5.38 ppm), while red raspberries had residues of 1.81 ppm. All of the other treated crops had residues less than 1 ppm with those in or on sweet corn, cabbage, apples, onions and dried beans at less than 0.01 ppm.

A series of studies were also conducted to determine the types of residues and the level of S35 in milk and tissues of lactating goats and in eggs and tissues of chickens fed 20, 60 or 200 ppm DMS35O in the diet for 28 days. Summary results are: (1) the maximum amounts of DMS35O in milk, eggs, and goat and chicken tissues from the 20 ppm DMS35O feeding level were 0.06, 0.28, 0.20 and 0.44 ppm, respectively, and TRR was 0.64, 3.00, 3.86 and 2.13 ppm, respectively ; (2) most of the DMS35O activity fed to the test animals was eliminated or metabolized to DMS35O2 and higher molecular weight S35-bearing compounds; (3) total S35 and DMS35O activities in milk and eggs remained fairly constant within each feeding level for the 28-day feeding period (i.e., no accumulation of S35 activity with time); (4) there was no accumulation of total S35 activity in chicken and goat tissues at any feeding level; and (5) the largest amounts of total S35 activity were found in goat liver and kidney and in chicken liver and muscle.

D. Toxicological Profile

1. *Acute toxicity*. DMSO has low acute toxicity and is practically non-toxic (LD_{50} > 5 g/kg) by ingestion or dermal application. Rat oral LD_{50}s are reported from 14.5 to 28.3 g/kg, whereas LD_{50}s for mice have been reported from 16.5 to 24.6 g/kg. The acute dermal LD_{50} is 40 g/kg for the rat and 50 g/kg for the mouse, while dermal LD_{50}s > 11 g/kg are reported for both dogs (beagles) and primates (rhesus monkeys). The acute rat inhalation LC_{50} > 1.6 mg/l, the only dose level tested, and which is also the no-observed-effect-level (NOEL). Although DMSO can cause skin and eye irritation, it is not a skin sensitizer.

2. *Genotoxicity*. DMSO is not mutagenic to Salmonella, Drosophila, and fish cell cultures. Because DMSO is not considered to be mutagenic, it is widely used as a solvent in mutagenicity testing. Although DMSO is bacteriostatic or bactericidal at concentrations of 5-50 percent, there is no evidence that DMSO causes chromosomal aberrations at levels that are not directly toxic to cells. In vivo cytogenetic studies with primates receiving orally or dermally administered DMSO showed no abnormalities in bone marrow smears. There are no documented adverse genetic effects reported as a result of medicinal DMSO uses (including quasi-medicinal uses for treatment of arthritis or sprains and strains). Additionally, no adverse genetic effects have been reported from occupational exposure to DMSO in over 40 years of industrial use.

3. *Reproductive and developmental toxicity*. A mouse teratology NOEL of 12 g/kg/day has been established based on research with a 50 percent DMSO solution administered orally. Additional teratogenicity studies of orally administered DMSO to pregnant mice, rats, rabbits and guinea pigs have demonstrated that DMSO is not a teratogen in mammals except at high levels that cause overt maternal toxicity and are coincident with the maximum tolerated dose. The data suggest that DMSO is not teratogenic at low levels regardless of the route of administration. Finally, the teratogenic potential of DMSO is dependent on the route of administration, the dose level and gestation stage at exposure.

4. *Subchronic toxicity*. A subchronic rat inhalation study established a NOEL at 200 mg/m^3 (0.2 mg/l), the only concentration tested. Extensive monitoring of human patients have shown that DMSO does not affect human renal function. DMSO is a diuretic but no sign of kidney damage has been found in humans or laboratory animals after repeated DMSO treatment.

5. *Chronic toxicity*. DMSO is not listed as a carcinogen by IARC, NTP, OSHA or ACGIH, based on reviews of numerous studies. In fact, a study supported by the US Public Health Services concluded that DMSO was not a carcinogen and is a safe carrying agent analogous to mineral oil. An 18–month study with rhesus monkeys established an oral NOEL of 3 g/kg/day. No tumors were observed and bone marrow smears from the monkeys that received oral or topical doses of DMSO at up to 9 g/kg/day for 18 months showed no DMSO effects. A 78–week rat study revealed no increases in mortality or tumors and established an oral NOEL of 3.3 g/kg/day based on hematology and ocular effects. If one considers the rhesus monkey to be the most appropriate model for extrapolation to humans, the oral monkey NOEL of 3 g/kg/day is comparable to an average human (70 kg) consuming approximately 210 g DMSO per day. Continuing research has demonstrated that the ocular effects reported from DMSO treatment of dogs, rabbits, guinea pigs and swine are species-specific and not reproducible in primates, including humans. In fact, 84 humans that have received daily topical treatment of 2.6 g DMSO/kg/day for up to 3 months showed no DMSO-related effects beyond occasional skin irritation and garlicky breath and body odor.

6. *Human and animal metabolism*. DMSO is metabolized in humans by oxidation to DMSO2 or by reduction to DMS. DMSO and DMSO2 are excreted in the urine and feces. DMS is eliminated through the breath and skin with a characteristic garlicky or oyster-like odor. Human excretion of orally administered DMSO is complete within 120 hours, with up to 68 percent as unchanged DMSO and 21-23 percent as DMSO2 excreted in the urine. The rate of renal clearance has been shown to be similar for chronic and singly administered doses regardless of dose concentration. No residual accumulation of DMSO has been reported in humans or lower animals who have received DMSO treatment for protracted periods of time, regardless of route of dose administration.

7. *Metabolite toxicity*. The metabolites of DMSO are DMSO2, which is naturally-occurring at low levels in human urine, and DMS, which is naturally-occurring in plants, the atmosphere, and lakes and oceans. Both of these metabolites are readily excreted from the body. Based on their widespread natural occurrence and ready degradation and/or excretion, the production of these metabolites from the proposed use of DMSO on food producing plants is not expected to pose any toxicological concern.

E. Aggregate Exposure

1. *Dietary exposure*. While potential dietary exposure is usually determined by multiplying the residue tolerance level for each exposed food or feed crop by its dietary consumption data then summing the residue contributions from all dietary sources, this method is not possible for DMSO for the following reasons: (1) because DMSO is naturally-occurring in many plants as well as in natural waters, the daily intake of endogenous DMSO is unknown; (2) residue data are only available for some of the raw agricultural commodities (RAC) that may potentially be exposed to DMSO from its proposed use in pesticides; and (3) it is unknown at this time which RACs will be exposed to DMSO used in pesticides applied to edible crop parts.

However, one can broadly estimate dietary exposure based on certain assumptions and/or generalizations, the available residue data to estimate conservative residue levels in broad crop groupings, and dietary consumption information for categories of food commodities. For example, information on per capita consumption data provided by food and nutrition specialists allows the following estimate of daily food consumption: meat - 0.5 lbs, dairy - 1.0 lbs, fruit and vegetables - 2.0 lbs and grains - 2.0 lbs, for a daily food consumption of 5.5 lbs or 2.5 kg food per day.

2. *Food*. When DMSO is applied at up to 5.0 lbs/acre to the edible parts of food and feed crops, dietary exposure to DMSO can be estimated from naturally-occurring DMSO levels in various food and feedstuffs in combination with those from crops harvested 24 hours after DMSO application. Maximum theoretical DMSO residues were 0.5 to 4 ppm in or on fruits and vegetables, up to about 10 ppm in or on small grains, and up to about 40 ppm in or on forage grasses and legumes.

Theoretical residues of DMSO in the human diet from meat and dairy products were determined from theoretical animal diets, the available crop residue data converted to dry weight basis and residue data from animal feeding studies. Based on these estimates of DMSO in bovine and poultry diets, bovine meat (liver) and milk would contribute 19.2 ppm and 8.0 ppm DMSO to the human diet, respectively, while poultry meat (liver) and eggs would contribute 2.1 ppm and 3.0 ppm DMSO to the diet.

Using the available residue data for DMSO in the raw agricultural commodities (RACs) and animal products in concert with dietary consumption information, total daily dietary intake of DMSO in human diet would be 0.0207 g (20.7 mg) DMSO. DMSO levels (ppm) in the human diet from endogenous sources and the proposed uses of DMSO in pesticide formulations are estimated to be 8.66 ppm. For dietary risk calculations, a more conservative value of 10.0 ppm will be used for estimated DMSO levels in human diet.

3. *Drinking water*. Based on the natural occurrence of DMSO in the environment, its chemical and biological characteristics and little-to-no mobility in soil, the expanded agronomic usage of DMSO is not expected to significantly increase drinking water exposures to DMSO. DMSO is found in many natural waters but concentrations are dependent on DMSO producing algae and other natural variables. It is unknown if or at what levels DMSO would be found in municipal or private water systems. Any DMSO that may be oversprayed to the soil from applications to crops would be rapidly metabolized by a wide variety of microorganisms, thereby diminishing ground or surface water exposure to DMSO. Additionally, environmental studies have shown little-to-no mobility of DMSO in the soil. Finally, DMSO is already cleared as a pesticidal inert for use in products applied to crops. Therefore, the proposal to expand the application timing of DMSO from early in the cropping season to include the entire cropping season would not be expected to significantly increase exposure of drinking water sources to DMSO.

4. *Non-dietary exposure*. The only anticipated human exposure to DMSO from non-dietary sources would be through occupational exposure, medicinal or quasi-medicinal uses of DMSO. DMSO applied to plants is rapidly absorbed and metabolized. When oversprayed to soils during agronomic use, DMSO is metabolized by a wide variety of soil microorganisms. DMSO is legally and readily available in health stores in many states and is reportedly used as a unregistered topical treatment for arthritis, muscle strains and sprains and bursitis. However, while these uses are not FDA-approved,

they have been practiced for 30 to 40 years with no documented ill effects beyond skin irritation to humans. Dermal exposure to very low levels of naturally-occurring DMSO may also occur from swimming in lakes or in the ocean.

F. Cumulative Effects

There is no reliable information to indicate that DMSO has a common mechanism of toxicity with any other chemical compound. Therefore, for cumulative exposure considerations, Gaylord believes it is appropriate to consider only the potential risks of DMSO.

Metabolism studies in humans and animals have shown that DMSO is not bioaccumulative. Since DMSO is naturally-occurring in many if not most fruits, vegetables and grains, is readily metabolized and eliminated, and has low toxicity, there would not be any anticipated increased human risk or adverse effects from DMSO applied to edible parts of plants. Plant-eating animals, including humans, ingest endogenous DMSO on a daily basis throughout their life as part of the normal diet. Ingestion of low-level DMSO residues resulting from agronomic use of DMSO will not increase the body burden of this efficiently metabolized and excreted compound.

G. Endocrine Effects

In light of the ubiquitous natural occurrence of this compound and the absence of any reported endocrine effects from any of the toxicity studies (even at very high dose levels), DMSO is not considered to be an endocrine disruptor. DMSO is found naturally in the environment, in natural waters and in most foods and feeds. Studies have shown that DMSO applied to plants is metabolized and incorporated into amino acids and other sulfur-containing plant components. Animal and human metabolism studies have shown that DMSO is predominantly eliminated ''as is'' or metabolized to DMSO2 and DMS prior to elimination. Several studies in which different species (i.e. rat, mouse, rabbit, hamster) were administered DMSO at high levels (up to lethal levels) have shown no effect on the time-to-mating or on mating and fertility indices. Radiolabeled DMS35O fed to chickens (laying hens) for 28 days had no effect on the ability of the hens to produce eggs. This wealth of data suggests that there are no effects on the estrous cycle, on mating behavior, or on male or female fertility. Chronic and subchronic studies in rhesus monkeys, mice, rats and dogs have not demonstrated any evidence of toxicity to the male or female reproductive tracts.

H. Safety Determination

1. *US population*. Based on the human NOEL of 2.6 g/kg/day and very conservative assumptions about DMSO residue levels in food/feed from natural occurrence and from the proposed expanded agronomic usage of DMSO, it would be impossible for humans to ingest toxicologically consequential levels of DMSO. DMSO is naturally present in most edible plants and animal products (i.e. milk, eggs, etc.). The proposed use of DMSO on edible parts of food crops would not add appreciably to naturally-occurring DMSO levels except for forage crops. Even when residues in or on forage crops and maximum anticipated residues from animal tissues/products are considered, total theoretical maximum levels of DMSO in the diet are still considerably below levels that would be of toxicological concern.

There is ample information to determine a reference dose (RfD) of 0.03 g DMSO/kg body weight/day based on data from chronic oral studies with rhesus monkeys. NOELs established by chronic oral studies vary from 3.0 g/kg/day for a monkey oral study to 12 g/kg/day for a mouse teratology study. Since dogs are the most sensitive specie tested using the oral route of exposure, based on lenticular effects, it would seem appropriate to use a dog study to establish the RfD for conducting a dietary exposure assessment. However, since rhesus monkeys are physiologically more closely related to humans than dogs, and the lenticular effect observed in dogs has never been documented in primates or humans in over 30 years of testing, the primate oral NOEL of 3 g/kg/day would be more relevant for use in human dietary risk assessments. Since the NOEL was established in a non-human it is appropriate to use an uncertainty factor (UF) of 100X (using current EPA criteria of 10X for intra-species variability and 10X for inter-species variability, 10 x 10 = 100). The data from the multigeneration studies indicate that there is no increased risk to neonates or young when DMSO is administered orally; therefore, an extra safety factor for the protection of infants and children is not warranted. This would result in a UF of 100X and a RfD of 0.03 g/kg/day or 30 mg/kg/day DMSO. For an average adult (70 kg) this is equivalent to 2.1 g DMSO/day, which is lower than therapeutic levels (i.e., 2.6 g/kg/day) that have shown no adverse effects in humans.

Since the RfD of 0.26 g/kg/day calculated from human data is based on a 3–month exposure period, the more conservative RfD of 0.03 g/kg/day calculated from monkey data, based on a 18–month exposure period, will be used in conducting the DMSO lifetime risk assessment. Using the compounded and extremely conservative exposure assumptions described above and the very conservative RfD of 0.03 g DMSO/kg/day, the aggregate human exposure to DMSO from its proposed agronomic use will utilize only 0.99 percent [(0.0207 g DMSO/day in diet) ((0.03 g/kg/day x 70 kg body wt) = 0.0207g DMSO/day anticipated (2.1 g/day DMSO allowed = 0.00985] of the RfD for the US population (based on estimated average consumption of 2.5 kg food/day for an average 70 kg adult). EPA generally has little concern for exposures below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable health risks to humans. Thus, based on the natural occurrence of DMSO in the human diet, DMSO's low toxicity, the ability of humans to readily metabolize DMSO, and very low aggregate dietary exposure, Gaylord concludes with reasonable certainty that no harm will result from aggregate human exposure to residues from the proposed use of DMSO in pesticide products applied to the edible parts of food and feed crops.

2. *Infants and children*. The proposed use of DMSO in pesticide products applied to the edible parts of plants will pose no additional risk of adverse effects to infants or children. Human infants and children are exposed to endogenous levels of DMSO and readily metabolize and excrete this compound. Even so, when assessing the potential for additional sensitivity of infants and children to DMSO and its residues, it is appropriate to consider the results of the developmental and reproductive studies, chronic studies and human health studies. The available data provide a clear picture of possible toxic effects and indicate that there is no increased risk to neonates or young when DMSO is ingested. Therefore, Gaylord concludes that an additional safety factor for the protection of infants and children is not needed and that the RfD of 0.03 g/kg/day is appropriate for assessing DMSO risks to infants and children.

Using the conservative exposure assumptions previously described, the percent RfD utilized by the aggregate human exposure to residues of DMSO from natural occurrence and from the proposed use would be 1.2 percent

[(0.0207 g DMSO/day in diet) x (0.25 percent of adult intake) ((0.03 g/kg/day x 14 kg body wt) = 0.0052 g DMSO/day anticipated (0.42 g/day DMSO allowed = 0.0123] for children 1 to 6 years old, based on estimated average consumption of 0.625 kg food/day (1/4 of adult consumption) and average body weight of 14 kg. Therefore, based on this conservative exposure assessment, Gaylord concludes with reasonable certainty that no harm will result to infants and children from aggregate human exposure to residues from the proposed use of DMSO in pesticide products applied to the edible parts of food and feed crops.

I. Existing Tolerances

DMSO is a pesticidally inert ingredient that currently is exempted [40 CFR (180.1001(d)] from the requirement of a tolerance for residues when used as a solvent or cosolvent in pesticide formulations applied before the crop emergence from the soil or prior to formation of edible parts of food plants. There are no other limits for DMSO expressed in 40 CFR (180.1001(d).

J. International Tolerances

There are no Codex maximum residue levels established for residues of DMSO on food or feed crops.

2. Gustafson Incorporation

PP 5F4584

EPA has received a pesticide petition (PP 5F4584) pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, as amended, 21 U.S.C. 346a(d), by the Food Quality Protection Act of 1996 (Pub. L. 104-170, 110 Stat. 1489) from Gustafson, Inc., 1400 Preston Road, Suite 400, Plano, Texas 75093 requesting that the time limited tolerances for wheat, barley and sugar beet RACs be made permanent for residues of the insecticide, imidacloprid: 1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine and its metabolites containing the 6-chloro-pyridinyl moiety. In September 1995, the EPA revised Table II of the Pesticide Assessment Guidelines, Subdivision O, Residue Chemistry. At that time, forage was removed as a raw agricultural commodity of barley. It is proposed that tolerances of 0.20 ppm for wheat, hay, and 0.20 ppm for barley, hay, be added. It is proposed that the tolerance for barley, straw, be increased from 0.20 ppm to 0.30 ppm. It is proposed that the tolerance for beets, sugar (tops) be increased from 0.20 ppm to 0.30 ppm. The original time-limited tolerances were published in the December 13, 1995 and in the August 30, 1995 **Federal Registers**. Imidacloprid is a broad-spectrum insecticide with excellent systemic and contact toxicity characteristics which is used primarily for sucking insects. The nature of the imidacloprid residue in plants and livestock is adequately understood. The analytical method for determining residues is a common moiety method for imidacloprid and its metabolites containing the 6-chloro-pyridinyl moiety using oxidation, derivatization, and analysis by capillary gas chromatography with a mass-selective detector. Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Gustafson has submitted the following summary of information, data and arguments in support of its pesticide petition. The summary was proposed by Gustafson, and EPA has not yet fully evaluated the merits of the petition. The conclusions and arguments presented are those of the petitioner and not of the EPA although the EPA has edited the summary for clarification as necessary.

A. Plant Metabolism and Analytical Method

The metabolism of imidacloprid in plants is adequately understood for the purposes of these tolerances. The residues of concern are combined residues of imidacloprid and its metabolites containing the 6-chloro-pyridinyl moiety, all calculated as imidacloprid. The analytical method is a common moiety method for imidacloprid and its metabolites containing the 6-chloro-pyridinyl moiety using a permanganate oxidation, silyl derivatization, and capillary GC-MS selective ion monitoring. This method has successfully passed a petition method validation in EPA labs. There is a confirmatory method specifically for imidacloprid and several metabolites utilizing GC/MS and HPLC-UV which has been validated by the EPA as well. Imidacloprid and its metabolites are stable for at least 24 months in the commodities when frozen.

B. Magnitude of the Residue

1. *Wheat.* When the conditional registrations and the time-limited tolerances were issued for wheat grain, wheat forage and wheat straw, the EPA requested additional residue field trials and residue testing to support a tolerance for wheat hay. Wheat seed was treated with imidacloprid, formulated as Gaucho 480 FS at a rate of 2.0 oz. a.i./ cwt seed. Field trials were conducted at seven locations: Colorado, Nebraska (two locations), North Dakota, Oklahoma, Texas and Wyoming. The wheat seed was planted and the RACs were harvested at the appropriate growth stages. Maximum residues in wheat grain, wheat forage and wheat straw were less than the time-limited tolerances. The maximum residue level in wheat hay was 0.187 ppm. A tolerance of 0.20 ppm for wheat hay is proposed.

2. *Barley*. When the conditional registrations and the time-limited tolerances were issued for barley grain, barley forage and barley straw, the EPA requested additional residue field trials and residue testing to support a tolerance for barley hay. Barley seed was treated with imidacloprid, formulated as Gaucho 480 FS at a rate of 2.0 oz. a.i./cwt seed. Field trials were conducted at five locations: Colorado, Nebraska, North Dakota, Pennsylvania and Wyoming. The barley seed was planted and the RACs were harvested at the appropriate growth stages. The maximum residue in barley grain was less than the time-limited tolerance. The maximum residue level in barley straw was 0.221 ppm, which was above the time- limited tolerance of 0.20 ppm. A revised tolerance of 0.30 ppm for barley straw is proposed. The maximum residue level in barley hay was 0.181 ppm. A tolerance of 0.20 ppm for barley hay is proposed.

3. *Sugar Beets*. When the conditional registrations and the time-limited tolerances were issued for beets, sugar (tops); beets, sugar (roots); and beets, sugar, molasses; the EPA requested additional residue field trials. Sugar beet seed was treated with imidacloprid, formulated as Gaucho 75 ST at a rate of 90 g ai/kg raw seed. Field trials were conducted at four locations: California, Colorado, Idaho and Nebraska. The sugar beet seed was planted and the RACs were harvested at the appropriate growth stages. The maximum residue in the sugar beet roots was less than the time-limited tolerances. The maximum residue level in the sugar beet tops was 0.255 ppm, which was above the time-limited tolerance of 0.10 ppm. A revised tolerance of 0.30 ppm for sugar beet tops is proposed.

C. Toxicological Profile of Imidacloprid

1. *Acute toxicity*. The acute oral LD_{50} values for imidacloprid technical ranged from 424 - 475 mg/kg bwt in the rat. The acute dermal LD_{50} was greater than 5,000 mg/kg in rats. The 4–hour inhalation LC_{50} was less than 69 mg/m^3 air (aerosol). Imidacloprid was not irritating to rabbit skin or eyes. Imidacloprid did not cause skin sensitization in guinea pigs.

2. *Genotoxicity*. Extensive mutagenicity studies conducted to investigate point and gene mutations, DNA damage and chromosomal aberration, both using *in vitro* and *in vivo* test systems show imidacloprid to be non-genotoxic.

3. *Reproductive and developmental toxicity*. A 2–generation rat reproduction study gave a no-observed-effect level (NOEL) of 100 ppm (8 mg/kg/bwt). Rat and rabbit developmental toxicity studies were negative at doses up to 30 mg/kg/bwt and 24 mg/kg/bwt, respectively.

4. *Subchronic toxicity*. 90–day feeding studies were conducted in rats and dogs. The NOELs for these tests were 14 mg/kg/bwt/day (150 ppm) and 5 mg/kg/bwt/day (200 ppm), for the rat and dog studies, respectively.

5. *Chronic toxicity/oncogenicity*. A 2–year rat feeding/ carcinogenicity study was negative for carcinogenic effects under the conditions of the study and had a NOEL of 100 ppm (5.7 mg/kg/bwt in males and 7.6 mg/kg/bwt in females for noncarcinogenic effects that included decreased body weight gain in females at 300 ppm and increased thyroid lesions in males at 300 ppm and females at 900 ppm. A 1–year dog feeding study indicated a NOEL of 1,250 ppm (41 mg/kg/bwt). A 2–year mouse carcinogenicity study was negative for carcinogenic effects under conditions of the study and had a NOEL of 1,000 ppm (208 mg/kg/day).

Imidacloprid has been classified under ''Group E'' (no evidence of carcinogenicity) by EPA's OPP/HED's Reference Dose (RfD) Committee. There is no cancer risk associated with exposure to this chemical. The reference dose (RfD) based on the 2–year rat feeding/carcinogenic study with a NOEL of 5.7 mg/kg/bwt and hundredfold uncertainty factor, is calculated to be 0.057 mg/kg/bwt. The theoretical maximum residue contribution (TMRC) from published uses is 0.008358 mg/kg/bwt/day utilizing 14.7 percent of the RfD.

6. *Endocrine effects*. The toxicology database for imidacloprid is current and complete. Studies in this database include evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following short or long term exposure. These studies revealed no primary endocrine effects due to imidacloprid.

7. *Mode of action*. Imidacloprid exhibits a mode of action different from traditional organophosphate, carbamate, or pyrethroid insecticides. Imidacloprid acts by binding to the nicotinergic receptor sites at the postsynaptic membrane of the insect nerve. Due to this novel mode of action, imidacloprid has not shown any cross resistance to registered alternative insecticides and is a valuable tool for use in IPM or resistance management programs.

D. Aggregate Exposure

Imidacloprid is a broad-spectrum insecticide with excellent systemic and contact toxicity characteristics with both food and non-food uses. Imidacloprid is currently registered for use on various food crops including seed treatments, tobacco, turf, ornamentals, buildings for termite control, and cats and dogs for flea control. Those potential exposures are addressed below:

1. *Dietary*. The EPA has determined that the reference dose (RfD) based on the 2–year rat feeding/carcinogenicity study with a NOEL of 5.7 mg/kg/bwt and hundredfold uncertainty factor, is calculated to be 0.057 mg/kg/bwt. As published in the **Federal Register** June 12, 1996 (61 FR 29674) (petition to establish tolerances on leafy green vegetables (PP 5F4522/R2237)), the theoretical maximum residue contribution (TMRC) from published uses is 0.008358 mg/kg/bwt utilizing 14.7 percent of the RfD for the general population. For the most highly exposed subgroup in the population, non-nursing infants (less than 1 year old), the TMRC for the published tolerances is 0.01547 mg/kg/day. This is equal to 27.1 percent of the RfD.

The TMRC for wheat is calculated to be 0.000066 mg/kg/bwt/day for the general population, which represents 0.1 percent of the RfD. The TMRC for the most highly exposed subgroup in the population, children 1 to 6 years of age, is 0.000149 mg/kg/bwt/day, which represents 0.3 percent of the RfD. The TMRC for nursing infants is 0.000009 mg/kg/bwt/day, which represents 0.0 percent of the RfD, and for non-nursing infants is 0.000033 mg/kg/bwt/day, which represents 0.1 percent of the RfD. Therefore, dietary exposure from wheat will not exceed the reference dose for any subpopulation (including infants and children).

The TMRC for barley is calculated to be 0.000004 mg/kg/bwt/day for the general population, which represents 0.0 percent of the RfD. The TMRC for the most highly exposed subgroup in the population, non-nursing infants, is 0.000009 mg/kg/bwt/day, which represents 0.0 percent of the RfD. The TMRC for nursing infants is 0.000000 mg/kg/bwt/day, which represents 0.0 percent of the RfD. The TMRC for children 1 to 6 years of age is 0.000001 mg/kg/bwt/day, which represents 0.0 percent of the RfD. Therefore, dietary exposure from barley will not exceed the reference dose for any subpopulation (including infants and children).

The TMRC for sugar beets is calculated to be 0.000012 mg/kg/bwt/day for the general population, which represents 0.0 percent of the RfD. The TMRC for the most highly exposed subgroup in the population, children 1 to 6 years of age, is 0.000027 mg/kg/bwt/day, which represents 0.0 percent of the RfD. The TMRC for non-nursing infants is 0.000017 mg/kg/bwt/day, which represents 0.0 percent of the RfD. The TMRC for nursing infants is 0.000005 mg/kg/bwt/day, which represents 0.0 percent of the RfD. Therefore, dietary exposure from sugar beets will not exceed the reference dose for any subpopulation (including infants and children).

The additive TMRC from exposure to wheat, barley and sugar beets for the general population, is 0.000082 mg/kg/bwt/day, which represents 0.1 percent of the RfD. The additive TMRC from exposure to wheat, barley and sugar beets to children, 1 to 6 years of age, is 0.000177 mg/kg/bwt/day, which represents 0.3 percent of the RfD. For non-nursing infants, the additive TMRC is 0.000029 mg/kg/bwt/day, which is 0.1 percent of the RfD. For nursing infants, the additive TMRC is 0.000014 mg/kg/bwt/day, which is 0.0 percent of the RfD.

2. *Water*. Although the various imidacloprid labels contain a statement that this chemical demonstrates the properties associated with chemicals detected in groundwater, the Registrant is not aware of imidacloprid being detected in any wells, ponds, lakes, streams, etc. from its use in the United States. Imidacloprid is hydrolytically stable at pH 5 and 7 with photolytic degradation in water having a half-life of 4.2 hours. Under aerobic soil conditions in laboratory studies, imidacloprid has a half-life of 188 to >366 days. Under laboratory anaerobic aquatic conditions, the half-life was 27 days. Adsorption/desorption studies indicate that aged imidacloprid residues do not leach into the soil. Imidacloprid dissipates under actual field conditions with a half-life of 7 to 196 days. Imidacloprid remained in the top six inches of the soil in U.S. tests for the duration of nine of ten field dissipation studies. The presence of growing vegetation significantly increased the rate of degradation of imidacloprid. In studies conducted in 1995, imidacloprid was not detected in seventeen wells on potato farms in Quebec, Canada. In addition, groundwater monitoring

studies are currently underway in California and Michigan. Therefore, contributions to the dietary burden from residues of imidacloprid in water would be inconsequential.

3. *Non-occupational*— i. *Residential turf*. Bayer Corporation has conducted an exposure study to address the potential exposures of adults and children from contact with imidacloprid treated turf. The population considered to have the greatest potential exposure from contact with pesticide treated turf soon after pesticides are applied are young children.

Margins of safety (MOS) of 7,587 - 41,546 for 10 year old children and 6,859 - 45,249 for 5 year old children were estimated by comparing dermal exposure doses to the imidacloprid no-observable effect level of 1,000 mg/kg/day established in a 15–day dermal toxicity study in rabbits. The estimated safe residue levels of imidacloprid on treated turf for 10 year old children ranged from 5.6 - 38.2 g/cm^2 and for 5 year old children from 5.1 - 33.3 g/cm^2. This compares with the average imidacloprid transferable residue level of 0.080 g/cm^2 present immediately after the sprays have dried. These data indicate that children can safely contact imidacloprid-treated turf as soon after application as the spray has dried.

ii. *Termiticide*. Imidacloprid is registered as a termiticide. Due to the nature of the treatment for termites, exposure would be limited to that from inhalation and was evaluated by EPA's Occupational and Residential Exposure Branch (OREB) and Bayer Corporation. Data indicate that the Margins of Safety for the worst case exposures for adults and infants occupying a treated building who are exposed continuously (24 hours/day) are 8.0 x 10^7 and 2.4 x 10^8, respectively, and exposure can thus be considered negligible.

iii. *Tobacco smoke*. Studies have been conducted to determine residues in tobacco and the resulting smoke following treatment. Residues of imidacloprid in cured tobacco following treatment were a maximum of 31 ppm (7 ppm in fresh leaves). When this tobacco was burned in a pyrolysis study only 2 percent of the initial residue was recovered in the resulting smoke (main stream plus side stream). This would result in an inhalation exposure to imidacloprid from smoking of approximately 0.0005 mg per cigarette. Using the measured subacute rat inhalation NOEL of 5.5 mg/m^3, it is apparent that exposure to imidacloprid from smoking (direct and/or indirect exposure) would not be significant.

iv. *Pet treatment*. Human exposure from the use of imidacloprid to treat dogs and cats for fleas has been addressed by EPA's Occupational and Residential Exposure Branch (OREB) who have concluded that due to the fact that imidacloprid is not an inhalation or dermal toxicant and that while dermal absorption data are not available, imidacloprid is not considered to present a hazard via the dermal route.

4. *Cumulative Effects*. No other chemicals having the same mechanism of toxicity are currently registered, therefore, there is no risk from cumulative effects from other substances with a common mechanism of toxicity.

E. Safety Determinations

1. *U.S. Population in general*. Using the conservative exposure assumptions described above and based on the completeness and reliability of the toxicity data, it can be concluded that total aggregate exposure to imidacloprid from all current uses including those currently proposed will utilize little more than 15 percent of the RfD for the U.S. population. EPA generally has no concerns for exposures below 100 percent of the RfD, because the RfD represents the level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. The TMRC from exposure to wheat, barley and sugar beets for the general population, is 0.000082 mg/kg/bwt/day, which represents 0.1 percent of the RfD. Thus, it can be concluded that there is a reasonable certainty that no harm will result from aggregate exposure to imidacloprid residues.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of imidacloprid, the data from developmental studies in both rat and rabbit and a 2–generation reproduction study in the rat have been considered. The developmental toxicity studies evaluate potential adverse effects on the developing animal resulting from pesticide exposure of the mother during prenatal development. The reproduction study evaluates effects from exposure to the pesticide on the reproductive capability of mating animals through 2 generations, as well as any observed systemic toxicity.

FFDCA Section 408 provides that the EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal effects and the completeness of the toxicity database. Based on current toxicological data requirements, the toxicology database for imidacloprid relative to pre- and post-natal effects is complete. Further for imidacloprid, the NOEL of 5.7 mg/kg/bwt from the 2–year rat feeding/carcinogenic study, which was used to calculate the RfD (discussed above), is already lower than the NOELs from the developmental studies in rats and rabbits by a factor of 4.2 to 17.5 times. Since a hundredfold uncertainty factor is already used to calculate the RfD, it is surmised that an additional uncertainty factor is not warranted and that the RfD at 0.057 mg/kg/bwt/day is appropriate for assessing aggregate risk to infants and children.

Using the conservative exposure assumptions described above, EPA has concluded that the TMRC from use of imidacloprid from published uses is 0.008358 mg/kg/bwt/day utilizing 14.7 percent of the RfD for the general population. For the most highly exposed subgroup in the population, non-nursing infants (less than 1 year old), the TMRC for the published tolerances is 0.01547 mg/kg/day. This is equal to 27.1 percent of the RfD. The additive TMRC from exposure to wheat, barley and sugar beets to children, 1 to 6 years of age, is 0.000177 mg/kg/bwt/day, which represents 0.3 percent of the RfD. For non-nursing infants, the additive TMRC is 0.000029 mg/kg/bwt/day, which is 0.1 percent of the RfD. For nursing infants, the additive TMRC is 0.000014 mg/kg/bwt/day, which is 0.0 percent of the RfD. Thus, it can be concluded that there is a reasonable certainty that no harm will result from additional exposure of infants and children.

F. Other Considerations

The nature of the imidacloprid residue in plants and livestock is adequately understood. The residues of concern are combined residues of imidacloprid and its metabolites containing the 6-chloropyridinyl moiety, all calculated as imidacloprid. The analytical method is a common moiety method for imidacloprid and its metabolites containing the 6-chloropyridinyl moiety using a permanganate oxidation, silyl derivatization, and capillary GC-MS selective ion monitoring. There is an additional confirmatory method available. Imidacloprid and its metabolites have been shown to be stable for at least 24 months in frozen storage.

G. International Tolerances

No CODEX Maximum Residue Levels (MRLs) have been established for residues of imidacloprid on any crops at this time.

3. Gustafson Incorporation

PP 6F4682

EPA has received a pesticide petition (PP 6F4682) pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, as amended, 21 U.S.C. 346a(d), by the Food Quality Protection Act of 1996 (Pub. L. 104-170, 110 Stat. 1489) from Gustafson, Inc., 1400 Preston Road, Suite 400, Plano, Texas 75093 requesting that tolerances be established for residues of the insecticide, imidacloprid: 1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine and its metabolites containing the 6-chloro-pyridinyl moiety. It is proposed that tolerances of 0.05 parts per million (ppm) for field corn, grain, 0.02 ppm for field corn, fodder and 0.10 ppm for field corn, forage be established. The nature of the imidacloprid residue in plants and livestock is adequately understood. The analytical method for determining residues is a common moiety method for imidacloprid and its metabolites containing the 6-chloro-pyridinyl moiety using oxidation, derivatization, and analysis by capillary gas chromatography with a mass-selective detector.

Imidacloprid is a broad spectrum insecticide with excellent systemic and contact toxicity characteristics which is used primarily for sucking insects. Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Gustafson has submitted the following summary of information, data and arguments in support of its pesticide petition. The summary was proposed by Gustafson, and EPA has not yet fully evaluated the merits of the petition. The conclusions and arguments presented are those of the petitioner and not of the EPA although the EPA has edited the summary for clarification as necessary.

A. Plant Metabolism and Analytical Method

The metabolism of imidacloprid in plants is adequately understood for the purposes of these tolerances. The residues of concern are combined residues of imidacloprid and its metabolites containing the 6-chloro-pyridinyl moiety, all calculated as imidacloprid. The analytical method is a common moiety method for imidacloprid and its metabolites containing the 6-chloro-pyridinyl moiety using a permanganate oxidation, silyl derivatization, and capillary GC-MS selective ion monitoring. This method has successfully passed a petition method validation in EPA labs. There is a confirmatory method specifically for imidacloprid and several metabolites utilizing GC/MS and HPLC-UV which has been validated by the EPA as well. Imidacloprid and its metabolites are stable for at least 24 months in the commodities when frozen.

B. Magnitude of the Residue

Corn seed was treated with imidacloprid, formulated as Gaucho 480 FS at a rate of 8.0 oz.ai/cwt seed. Field trials were conducted at twenty locations, one in Region 1, one in Region 2, seventeen in Region 5, and one in Region 6. The corn seed was planted and the RACs were harvested at the appropriate growth stages. The highest average residue level found in field corn forage was 0.064 ppm. The highest average residue level found in the field corn grain was less than the Limit of Quantitation, which was 0.05 ppm. The highest average residue level found in the field corn fodder was 0.150 ppm. The proposed tolerance for field corn forage is 0.10 ppm. The proposed tolerance for the field corn fodder is 0.20 ppm. The proposed tolerance for the field corn grain is 0.05 ppm.

Since there were no quantifiable residues in the field corn grain RAC samples analyzed in the processing study or in the RAC study, neither a section 409 food/feed additive tolerance or a section 701 maximum residue level is required for the processed commodities.

C. Toxicological Profile of Imidacloprid

1. *Acute toxicity*. The acute oral LD_{50} values for imidacloprid technical ranged from 424 - 475 mg/kg bwt in the rat. The acute dermal LD_{50} was greater than 5,000 mg/kg in rats. The 4 hour inhalation LC_{50} was less than 69 mg/m^3 air (aerosol). Imidacloprid was not irritating to rabbit skin or eyes. Imidacloprid did not cause skin sensitization in guinea pigs.

2. *Genotoxicity*. Extensive mutagenicity studies conducted to investigate point and gene mutations, DNA damage and chromosomal aberration, both using *in vitro* and *in vivo* test systems show imidacloprid to be non-genotoxic.

3. *Reproductive and developmental toxicity*. A 2–generation rat reproduction study gave a no-observed-effect level (NOEL) of 100 ppm (8 mg/kg/bwt). Rat and rabbit developmental toxicity studies were negative at doses up to 30 mg/kg/bwt and 24 mg/kg/bwt, respectively.

4. *Subchronic toxicity*. 90–day feeding studies were conducted in rats and dogs. The NOELs for these tests were 14 mg/kg/bwt/day (150 ppm) and 5 mg/kg/bwt/day (200 ppm), for the rat and dog studies, respectively.

5. *Chronic toxicity/oncogenicity*. A 2–year rat feeding/ carcinogenicity study was negative for carcinogenic effects under the conditions of the study and had a NOEL of 100 ppm (5.7 mg/kg/bwt in males and 7.6 mg/kg/bwt in females for noncarcinogenic effects that included decreased body weight gain in females at 300 ppm and increased thyroid lesions in males at 300 ppm and females at 900 ppm. A 1–year dog feeding study indicated a NOEL of 1,250 ppm (41 mg/kg/bwt). A 2–year mouse carcinogenicity study was negative for carcinogenic effects under conditions of the study and had a NOEL of 1,000 ppm (208 mg/kg/day).

Imidacloprid has been classified under ''Group E'' (no evidence of carcinogenicity) by EPA's OPP/HED's Reference Dose (RfD) Committee. There is no cancer risk associated with exposure to this chemical. The reference dose (RfD) based on the 2–year rat feeding/carcinogenic study with a NOEL of 5.7 mg/kg/bwt and hundredfold uncertainty factor, is calculated to be 0.057 mg/kg/bwt. The theoretical maximum residue contribution (TMRC) from published uses is 0.008358 mg/kg/bwt/day utilizing 14.7 percent of the RfD.

6. *Endocrine effects*. The toxicology database for imidacloprid is current and complete. Studies in this database include evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following short or long term exposure. These studies revealed no primary endocrine effects due to imidacloprid.

7. *Mode of action*. Imidacloprid exhibits a mode of action different from traditional organophosphate, carbamate, or pyrethroid insecticides. Imidacloprid acts by binding to the nicotinergic receptor sites at the postsynaptic membrane of the insect nerve. Due to this novel mode of action, imidacloprid has not shown any cross resistance to registered alternative insecticides and is a valuable tool for use in IPM or resistance management programs.

D. Aggregate Exposure

Imidacloprid is a broad-spectrum insecticide with excellent systemic and contact toxicity characteristics with both food and non-food uses. Imidacloprid is currently registered for use on various food crops including seed treatments, tobacco, turf, ornamentals, buildings for termite control, and cats and dogs for flea control. Those potential exposures are addressed below:

1. *Dietary*. The EPA has determined that the reference dose (RfD) based on the 2–year rat feeding/carcinogenicity study with a NOEL of 5.7 mg/kg/bwt and hundredfold uncertainty factor, is calculated to be 0.057 mg/kg/bwt. As published in the **Federal Register** June 12, 1996 (61 FR 29674) (petition to establish tolerances on leafy green vegetables (PP 5F4522/R2237), the theoretical maximum residue contribution (TMRC) from published uses is 0.008358 mg/kg/bwt utilizing 14.7 percent of the RfD for the general population. For the most highly exposed subgroup in the population, non-nursing infants (less than 1 year old), the TMRC for the published tolerances is 0.01547 mg/kg/day. This is equal to 27.1 percent of the RfD.

The TMRC for corn is calculated to be 0.000055 mg/kg/bwt/day for the general population, which represents 0.1 percent of the RfD. The TMRC for the most highly exposed subgroup in the population, non-nursing infants is 0.000131 mg/kg/bwt/day, which represents 0.2 percent of the RfD. The TMRC for children ages 1 to 6 years is 0.000130 mg/kg/bwt/day, which represents 0.2 percent of the RfD, and for nursing infants is 0.000032 mg/kg/bwt/day, which represents 0.1 percent of the RfD. For children 7 to 12 years of age, the TMRC is 0.000098 mg/kg/bwt/day, which represents 0.2 percent of the RfD. Therefore, dietary exposure from field corn will not exceed the reference dose for any subpopulation (including infants and children).

2. *Water*. Although the various imidacloprid labels contain a statement that this chemical demonstrates the properties associated with chemicals detected in groundwater, the Registrant is not aware of imidacloprid being detected in any wells, ponds, lakes, streams, etc. from its use in the United States. Imidacloprid is hydrolytically stable at pH 5 and 7 with photolytic degradation in water having a half-life of 4.2 hours. Under aerobic soil conditions in laboratory studies, imidacloprid has a half-life of 188 to >366 days. Under laboratory anaerobic aquatic conditions, the half-life was 27 days. Adsorption/desorption studies indicate that aged imidacloprid residues do not leach into the soil. Imidacloprid dissipates under actual field conditions with a half-life of 7 to 196 days. Imidacloprid remained in the top six inches of the soil in U.S. tests for the duration of nine of ten field dissipation studies. The presence of growing vegetation significantly increased the rate of degradation of imidacloprid. In studies conducted in 1995, imidacloprid was not detected in seventeen wells on potato farms in Quebec, Canada. In addition, groundwater monitoring studies are currently underway in California and Michigan. Therefore, contributions to the dietary burden from residues of imidacloprid in water would be inconsequential.

3. *Non-occupational*— i. *Residential turf*. Bayer Corporation has conducted an exposure study to address the potential exposures of adults and children from contact with imidacloprid treated turf. The population considered to have the greatest potential exposure from contact with pesticide treated turf soon after pesticides are applied are young children.

Margins of safety (MOS) of 7,587 - 41,546 for 10 year old children and 6,859 - 45,249 for 5 year old children were estimated by comparing dermal exposure doses to the imidacloprid no-observable effect level of 1,000 mg/kg/day established in a 15 day dermal toxicity study in rabbits. The estimated safe residue levels of imidacloprid on treated turf for 10 year old children ranged from 5.6 - 38.2 g/cm^2 and for 5 year old children from 5.1 - 33.3 g/cm^2. This compares with the average imidacloprid transferable residue level of 0.080 g/cm^2 present immediately after the sprays have dried. These data indicate that children can safely contact imidacloprid-treated turf as soon after application as the spray has dried.

ii. *Termiticide*. Imidacloprid is registered as a termiticide. Due to the nature of the treatment for termites, exposure would be limited to that from inhalation and was evaluated by EPA's Occupational and Residential Exposure Branch (OREB) and Bayer Corporation. Data indicate that the Margins of Safety for the worst case exposures for adults and infants occupying a treated building who are exposed continuously (24 hours/day) are 8.0×10^7 and 2.4×10^8, respectively, and exposure can thus be considered negligible.

iii. *Tobacco smoke*. Studies have been conducted to determine residues in tobacco and the resulting smoke following treatment. Residues of imidacloprid in cured tobacco following treatment were a maximum of 31 ppm (7 ppm in fresh leaves). When this tobacco was burned in a pyrolysis study only two percent of the initial residue was recovered in the resulting smoke (main stream plus side stream). This would result in an inhalation exposure to imidacloprid from smoking of approximately 0.0005 mg per cigarette. Using the measured subacute rat inhalation NOEL of 5.5 mg/m^3, it is apparent that exposure to imidacloprid from smoking (direct and/or indirect exposure) would not be significant.

iv. *Pet treatment*. Human exposure from the use of imidacloprid to treat dogs and cats for fleas has been addressed by EPA's Occupational and Residential Exposure Branch (OREB) who have concluded that due to the fact that imidacloprid is not an inhalation or dermal toxicant and that while dermal absorption data are not available, imidacloprid is not considered to present a hazard via the dermal route.

4. *Cumulative effects*. No other chemicals having the same mechanism of toxicity are currently registered, therefore, there is no risk from cumulative effects from other substances with a common mechanism of toxicity.

E. Safety Determinations

1. *U.S. Population in general*. Using the conservative exposure assumptions described above and based on the completeness and reliability of the toxicity data, it can be concluded that total aggregate exposure to imidacloprid from all current uses including those currently proposed will utilize little more than 15 percent of the RfD for the U.S. population. EPA generally has no concerns for exposures below 100 percent of the RfD, because the RfD represents the level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. The TMRC from exposure to field corn for the general population, is 0.000055 mg/kg/bwt/day, which represents 0.1 percent of the RfD. Thus, it can be concluded that there is a reasonable certainty that no harm will result from aggregate exposure to imidacloprid residues.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of imidacloprid, the data from developmental studies in both rat and rabbit and a 2–generation reproduction study in the rat have been considered. The developmental toxicity studies evaluate potential adverse effects on the developing animal resulting from pesticide exposure of the mother during prenatal development. The reproduction study evaluates effects from exposure to the pesticide on the reproductive capability of mating animals through 2 generations, as well as any observed systemic toxicity.

FFDCA section 408 provides that the EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal effects and the completeness of the toxicity database. Based on current toxicological data requirements, the toxicology database for imidacloprid relative to pre- and

post-natal effects is complete. Further for imidacloprid, the NOEL of 5.7 mg/kg/bwt from the 2–year rat feeding/carcinogenic study, which was used to calculate the RfD (discussed above), is already lower than the NOELs from the developmental studies in rats and rabbits by a factor of 4.2 to 17.5 times. Since a hundredfold uncertainty factor is already used to calculate the RfD, it is surmised that an additional uncertainty factor is not warranted and that the RfD at 0.057 mg/kg/bwt/day is appropriate for assessing aggregate risk to infants and children. Using the conservative exposure assumptions described above, EPA has concluded that the TMRC from use of imidacloprid from published uses is 0.008358 mg/kg/bwt/day utilizing 14.7 percent of the RfD for the general population. For the most highly exposed subgroup in the population, non-nursing infants (less than 1 year old), the TMRC for the published tolerances is 0.01547 mg/kg/day. This is equal to 27.1 percent of the RfD. The TMRC from exposure to field corn to non-nursing infants is 0.000131 mg/kg/bwt/day, which represents 0.2 percent of the RfD. The TMRC for children ages 1 to 6 years is 0.000130 mg/kg/bwt/day, which represents 0.2 percent of the RfD. For nursing infants, the TMRC is 0.000032 mg/kg/bwt/day, which is 0.1 percent of the RfD. For children ages 7 to 12 years, the TMRC is 0.000098 mg/kg/bwt/day, which is 0.2 percent of the RfD. Thus, it can be concluded that there is a reasonable certainty that no harm will result from additional exposure of infants and children.

F. Other Considerations

The nature of the imidacloprid residue in plants and livestock is adequately understood. The residues of concern are combined residues of imidacloprid and its metabolites containing the 6-chloropyridinyl moiety, all calculated as imidacloprid. The analytical method is a common moiety method for imidacloprid and its metabolites containing the 6-chloropyridinyl moiety using a permanganate oxidation, silyl derivatization, and capillary GC-MS selective ion monitoring. There is an additional confirmatory method available. Imidacloprid and its metabolites have been shown to be stable for at least 24 months in frozen storage.

G. International Tolerances

No CODEX Maximum Residue Levels (MRLs) have been established for residues of imidacloprid on any crops at this time.

[FR Doc. 97–16655 Filed 6–24–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–739; FRL–5721–7]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–739, must be received on or before July 25, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The regulatory action leaders listed in the table below:

Product Manager	Office location/telephone number	Address
Sheryl Reilly (PM 90)	Rm. 5-W29, 5th Floor, CS-1, 703-308-8265 e-mail: reilly.sheryl@epamail.epa.gov	2800 Jefferson Davis Hwy., Arlington, VA 22202
Mike Mendelsohn (PM 90).	Rm. 5-W44, 5th Floor, CS-1, 703-308-8715 e-mail: mendelsohn.mike@epamail.epa.gov	Do.
Linda Hollis (PM 90)	Rm 5-J, 5th Floor, CS-1, 703-308-8733 e-mail: hollis.linda@epamail.epa.gov	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–739] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in

Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (insert docket number) and appropriate petition number. Electronic comments on notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 12, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Kemira Agro Oy

PP 7F4137

A. Proposed Use Practices

Registration of PRIMASTOP containing *Gliocladium catenulatum* Strain J1446 is being proposed for the following sites: Vegetables, herbs and spices, ornamentals, tree and shrub seedlings, turf, home and garden.

PRIMASTOP is used for the control of damping-off, seed rot, root and stem rot, and wilt diseases caused by *Rhizoctonia, Pythium, Phytophthora, Fusarium, Didymella, Botrytis, Verticillium, Alternaria, Cladosporium, Helminthosporium, Penicillium and Plicaria* on vegetables, herbs, ornamentals and tree and forest seedlings grown in greenhouse or outdoors.

PRIMASTOP can be incorporated in the growth substrate as a dry powder or as an aqueous suspension or applied by drenching, spraying or dipping.

1. *Incorporation into potting media.* The recommended rate for incorporation of PRIMASTOP in potting media is 5 to 30 oz/yd^3 (0.2 to 1 g/L) of growing media. If the incorporation is done with the aqueous suspension, mix 3.5 oz (100 g) of PRIMASTOP powder in 1.0 gallon (or 4 L) of water and carefully mix the suspension with the growth substrate (1.5-8.5 gal/yd^3). Incorporation of PRIMASTOP can be followed with a drench application within 2 to 6 weeks.

2. *Drench application.* Drenching treatment can be done using a 0.2-0.5% suspension. Seedling trays or beds can be drenched with PRIMASTOP at the recommended rate of 2 to 10 oz./100 ft^2 (5-25 g/m^2). Drenching at sowing is recommended for vegetables (except for tomato and leek), herbs and ornamentals (except pansy) grown in peat or soil mixture. Drenching after emergence is recommended for tomato, leek, pansy and all seedlings grown in rockwool, such as cucumbers. Repeat treatment at transplanting.

3. *Foliar spray.* PRIMASTOP can be sprayed or spread on the plant stems or foliar parts for control of Didymella or Botrytis with an aqueous suspension. Recommended concentration is up to 5%.

4. *Treatment of cuttings, bulbs or tubers.* Cuttings, bulbs or tubers can be dipped in or sprayed with PRIMASTOP suspensionn before planting or storage. The product can also be incorporated in the storage mixture, such as sand or peat at a rate up to 1 g/L.

B. Product Identity/Chemistry

1. *Identity of pesticide and corresponding residues.* The active ingredient in Primastop is *Gliocladium catenulatum* Strain J1446. The mechanism by which *Gliocladium catenulatum* Strain J1446 controls diseases appears to be enzymatic. *Gliocladium catenulatum* Strain J1446 does not produce toxins or antibiotics. Further, *Gliocladium catenulatum* Strain J1446 is a naturally occurring microorganism. *Gliocladium catenulatum* is widespread in the environment.

2. *Magnitude of residue anticipated at the time of harvest and method used to determine the residue.* No residues of *Gliocladium catenulatum* Strain J1446 are anticipated in treated crops at harvest. Subdivision M - Series 153A-3(a) indicates that ''if Tier I toxicology tests indicate no toxic or other harmful properties, then no residue data would be indicated.'' Studies with *Gliocladium catenulatum* Strain J1446 demonstrated low mammalian toxicity. No pathogenicity or infectivity was observed in any of the tests conducted with *Gliocladium catenulatum* Strain J1446. Further, *Gliocladium catenulatum* Strain J1446 is a naturally occurring microorganism. *Gliocladium catenulatum* is widespread in the environment.

3. *Statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* Subdivision M - Series 153A-3(a) indicates that ''if Tier I toxicology tests indicate no toxic or other harmful properties , then no residue data would be indicated and thus a recommendation for an exemption from the requirement of a tolerance can be made.'' Studies with *Gliocladium catenulatum* Strain J1446 demonstrated low mammalian toxicity. No pathogenicity or infectivity was observed in any of the tests conducted with *Gliocladium catenulatum* Strain J1446. Further, *Gliocladium catenulatum* Strain J1446 is a naturally occurring microorganism. *Gliocladium catenulatum* is widespread in the environment.

C. Health and Safety

Kemira Agro Oy conducted the required toxicology studies to support its petition for an exemption from the requirement of tolerance and associated registrations. The studies conducted indicate a low mammalian toxicity for *Gliocladium catenulatum* Strain J1446. No pathogenicity or infectivity was observed in any of the tests conducted with *Gliocladium catenulatum* Strain J1446. The mechanism by which *Gliocladium catenulatum* Strain J1446 controls diseases appears to be enzymatic. *Gliocladium catenulatum* Strain J1446 does not produce toxins or antibiotics.

Toxicology data in support of the exemption from the requirement of a tolerance for *Gliocladium catenulatum* Strain J1446 included studies with the cell mass (technical) and with the formulated product as follows:

1. *Acute toxicity and/or pathogenicity.— a. Gliocladium catenulatum Strain J1446 Cell Mass (Technical).* i. Acute oral toxicity and pathogenicity in rats (acute oral LD_{50} > 4.04 to 5.86 × 108 cfu/kg, clearance: < 3 days).

ii. Acute pulmonary toxicity/ pathogenicity in rats (acute pulmonary LC_{50} > 6.60 to 7.98 × 108 cfu/kg, clearance: < 7 days).

iii. Acute intraperitoneal toxicity/ pathogenicity in rats (acute intraperitoneal LD_{50} > 4.2 × 108 cfu/kg, clearance: < 7 days).

b. *Gliocladium catenulatum Strain J1446 Formulation (Primastop).* i. Acute oral LD_{50} toxicity in rats (> 2,000 mg/kg, EPA toxicity category III).

ii. Acute dermal LD_{50} toxicity in rats (>2,000 mg/kg, EPA toxicity category III).

iii. Acute dermal irritation in rabbits (minimal dermal irritant, EPA toxicity category IV).

iv. Acute inhalation LC_{50} toxicity in rats (> 5.57 mg/L, EPA toxicity category V).

v. Primary eye irritation (minimal eye irritant, EPA toxicity category IV).

vi. Skin sensitization (sensitizer).

vii. No hypersensitivity effects have been observed.

c. The inert ingredients contained in the *Gliocladium catenulatum* Strain J1446 formulation, Primastop, are all minimal risk (List 4)(59 FR 49400, September 28, 1994).

2. *Genotoxicity*. Subdivision M Guidelines do not require the conduct of genotoxicity studies to support the registration of a microbial pest control agent, such as *Gliocladium catenulatum* Strain J1446.

3. *Reproductive and developmental toxicity.* Subdivision M Guidelines do not require the conduct of reproductive and developmental toxicity studies to support the registration of a microbial pest control agent, such as *Gliocladium catenulatum* Strain J1446.

4. *Subchronic toxicity.* Subdivision M Guidelines do not require the conduct of subchronic toxicity studies to support the registration of a microbial pest control agent, such as *Gliocladium catenulatum* Strain J1446.

5. *Chronic toxicity.* Subdivision M Guidelines do not require the conduct of chronic toxicity studies to support the registration of a microbial pest control agent, such as *Gliocladium catenulatum* Strain J1446.

Sufficient data exist to assess the hazards of *Gliocladium catenulatum* Strain J1446 and to make a determination on aggregate exposure, consistent with section 408(c)(2), for the exemptions from the requirement of a tolerance. The exposures, including dietary exposure, and risks associated with establishing the requested exemption from the requirement of a tolerance follows.

D. Threshold Effects

Gliocladium catenulatum is a naturally occurring microorganism that is widespread in the environment. Both the cell mass (technical) and the formulation of *Gliocladium catenulatum* Strain J1446 demonstrated low toxicity. No pathogenicity or infectivity was observed in any of the tests conducted with *Gliocladium catenulatum* Strain J1446. No threshold effects were observed or are anticipated for *Gliocladium catenulatum* Strain J1446.

E. Non-threshold Effects

Gliocladium catenulatum is a naturally occurring microorganism that is widespread in the environment. Both the cell mass (technical) and formulation of *Gliocladium catenulatum* Strain J1446 demonstrated low toxicity. No pathogenicity or infectivity was observed in any of the tests conducted with *Gliocladium catenulatum* Strain J1446. Non-threshold effects were not observed nor are any anticipated for *Gliocladium catenulatum* Strain J1446.

F. Aggregate Exposure

Gliocladium catenulatum is naturally occurring and widespread in the environment. The low toxicity and non-pathogenicity/infectivity of *Gliocladium catenulatum* Strain J1446 is demonstrated by the data summarized above. The product will be applied by incorporation into growing media and/or by drenching at seeding or in the early growing stages of the treated plants.

1. *Dietary exposure*— a. *food*. It is not anticipated that residues of *Gliocladium catenulatum* Strain J1446 will occur in treated raw agricultural commodities.

b. *Drinking water*. It is not anticipated that residues of *Gliocladium catenulatum* Strain J1446 will occur in drinking water.

2. *Non-dietary exposure.* The potential for non-occupational, non-dietary exposure to the general population is not expected to be significant.

G. Cumulative Exposure

There is no anticipated potential for cumulative effects of *Gliocladium catenulatum* Strain J1446 and other substances that have a common mechanism of toxicity. Clearance of *Gliocladium catenulatum* Strain J1446 from test species was < 3 days in two studies and < 7 days in a third study. Toxic effects produced by *Gliocladium catenulatum* Strain J1446 should not be cumulative with those of any other chemical compounds.

H. Determination of Safety for U.S. Population

Gliocladium catenulatum Strain J1446 is a naturally occurring microorganism. *Gliocladium catenulatum* is widespread in the environment. The low toxicity of *Gliocladium catenulatum* Strain J1446 is demonstrated by the data summarized above. Based on this information, the aggregate exposure to *Gliocladium catenulatum* Strain J1446 over a lifetime should not pose appreciable risks to human health. There is a reasonable certainty that no harm will result from aggregate exposure to *Gliocladium catenulatum* Strain J1446 residues. Exempting *Gliocladium catenulatum* Strain J1446 from the requirement of a tolerance should be considered safe and pose insignificant risk.

I. Determination of Safety for Infants and Children

The toxicity and exposure data are sufficiently complete to adequately address the potential for additional sensitivity of infants and children to residues of *Gliocladium catenulatum* Strain J1446. There is a reasonable certainty that no harm will result to infants and children from aggregate exposure to *Gliocladium catenulatum* Strain J1446 residues.

J. Estrogenic Effects

No specific tests have been conducted with *Gliocladium catenulatum* Strain J1446 to determine whether it may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects. However, it is not likely that *Gliocladium catenulatum* strain J1446 would have estrogen or endocrine effects because:

1. It is a naturally occurring microorganism. *Gliocladium catenulatum* is widespread in the environment.

2. It has demonstrated low mammalian toxicity.

3. No pathogenicity or infectivity was observed in any of the tests conducted with *Gliocladium catenulatum* Strain J1446.

4. The mechanism by which *Gliocladium catenulatum* Strain J1446 controls diseases appears to be enzymatic.

5. *Gliocladium catenulatum* Strain J1446 does not produce toxins or antibiotics.

K. Existing Tolerances

No tolerances or exemptions from the requirement of tolerance have been established or applied for domestically or internationally other that subject petition.

L. Environmental Fate

Environmental fate data are not required to support the registration of a biopesticide unless results from Tier I studies indicate that risks would be expected from use of the product. *Gliocladium catenulatum* GStrain J1446 is a naturally occurring microorganism. *Gliocladium catenulatum* is widespread in the environment. Extensive literature searches revealed an absence of any ecological effects or environmental fate

data from *Gliocladium catenulatum*. (Sheryl Reilly)

2. Monsanto Company

PP 6E4657

A. Background Information and Use Profile

The development of plant varieties containing useful new traits introduced by plant genetic engineering such as insect protection depends upon an effective means to select for the rare transformed plant cells containing the added gene. For example, a gene required for the production of an insecticidal protein in the plant tissue cannot be efficiently selected for several weeks after the transformation event as it does not, itself, provide a readily selectable property to the cell which carries it. Regenerating each cell from that transformation experiment to test for the presence of the gene would be both impractical and prohibitory, as the frequency that transformed cells are obtained is often as low as 1 in 10,000 or 1 in 100,000 of the cells treated (Fraley et al., 1984). Therefore, a selectable marker gene and a selective agent are used to identify the rare transformed cells for regeneration.

A selectable marker gene allows a cell expressing that marker gene to grow in the presence of a selective agent by inactivating or neutralizing the agent which would otherwise inhibit the growth or kill the cell. The marker gene also permits tracking of linked traits that are difficult to identify at the cellular or whole plant level.

For insect-protected corn plants, the gox gene was used as a selectable marker gene conferring tolerance to glyphosate. The glyphosate oxidoreductase (gox) gene from Achromobacter sp. strain LBAA (new genus *Ochrobactrum anthropi*) produces a protein (GOX) which degrades glyphosate. The GOX protein confers tolerance to glyphosate and provides a selectable marker used in initial laboratory stages of plant cell selection to identify plant cells containing agronomic genes of interest such as the cryIA(b) gene which imparts protection from certain lepidopteran insect pests.

B. Risk Assessment and Statutory Findings Toxicology Profile

1. *Data summary.* Monsanto Company has requested an exemption from the requirement of a tolerance for glyphosate oxidoreductase (GOX) as a plant pesticide formulation inert ingredient. Included in the Monsanto submission to the EPA were several toxicology studies in support of the GOX protein as a pesticide formulation inert ingredient.

The GOX protein used in these studies was produced in an *E. coli* over-expression system and partially purified. The GOX protein expressed in *E. coli* was characterized and shown to be substantially equivalent to the GOX expressed in insect-protected corn where it was utilized as a selectable marker protein.

The following mammalian toxicity studies have been conducted to support this exemption from the requirement of a tolerance:

a. A mouse acute oral gavage study was performed in which the No-Observed-Effect-Level (NOEL) for toxicity of GOX protein administered as a single dose was considered to be 100 milligrams per kilogram (mg/kg) (the highest tested target dose). The protein was administered by gavage to three groups of male and female mice at target dose levels of 1, 10, and 100 mg/kg body weight. Appropriate hollow vector and vehicle controls were used. Mice were observed twice daily for signs of toxicity and food consumption was recorded daily. Food and water were provided ad libitum. All animals were sacrificed on post-dosing day seven and subjected to gross necropsy. Approximately 40 tissues were collected and saved for each animal in the test. There were no statistically significant differences in body weight, cumulative body weight or food consumption between the controls or GOX protein treated groups. No grossly observable pathologic changes were observed in mice at necropsy that were related to treatment.

When proteins are toxic, they are known to act via acute mechanisms and at very low dose levels (Sjoblad, et al., 1992). The acute oral toxicity data submitted support the prediction that the GOX protein is non-toxic to humans.

b. An *in vitro* digestive fate study of the GOX protein in simulated gastric and intestinal fluids demonstrated rapid protein degradation. In gastric fluid, the GOX protein degraded extremely rapidly; more than 90% of the initially added GOX protein degraded after 15 seconds incubation as detected by western blot analysis. GOX enzymatic activity also dissipated readily; more than 96% of the added GOX activity dissipated after one minute incubation, the earliest time point measured.

In intestinal fluid, GOX protein degraded rapidly; more than 90% of the initially added GOX protein degraded after 30 seconds incubation as detected by western blot analysis. GOX enzymatic activity also dissipated readily; more than 95% of the added GOX enzymatic activity dissipated after 60 minute incubation. The difference in dissipation of the enzymatic activity of GOX when compared to detection by western blot analysis suggests the antigenic sites on the GOX protein for the particular antibody used in this study were more sensitive to proteolytic degradation in simulated intestinal fluid under these conditions than is the functional active site of the GOX protein. The GOX protein degraded readily, though, as assessed by both western blot analysis and enzymatic activity.

The results of this study established that the GOX protein and its associated functional activity will be efficiently degraded upon exposure to gastric and intestinal fluids in the mammalian digestive tract. Known protein allergens are often resistant to digestion.

c. A homology assessment of the amino acid sequence of the GOX protein has been performed comparing this protein to known allergens or gliadin proteins. Monsanto has searched the amino acid sequences of the 219 allergens present in public domain genetic databases (GenBank, EMBL, PIR, and SwissProt) for similarity to the amino acid sequences of the GOX protein using the FASTA computer program (Pearson and Lipman, 1988). Monsanto concludes (i) that the gox gene introduced does not encode a known allergen, and (ii) that the introduced GOX protein does not share immunologically significant sequences with known allergens.

The GOX protein is produced at low levels (ppm) by insect-protected corn plants and is contained within the cells of the corn plant. In documentation provided to the Agency, the range of GOX protein levels in insect-protected corn line samples as assessed using a validated ELISA specific to the GOX protein ranged from < 1.8 to 19.32 µg/g fresh weight (fwt) in leaf tissue, < 1.5 to 11.7 µg/g fwt in grain, and < 0.6 to 2.46 µg/g fwt in whole plant tissue. Western blot analysis indicated that the GOX protein was not present in corn pollen.

The genetic material encoding the GOX protein and the regulatory regions associated with the gene have been well characterized. Nucleic acids (DNA) is common to all forms of plant and animal life and there are no known instances of toxic effects related to their consumption. No mammalian toxicity is expected from dietary exposure to the genetic material necessary for the production of the GOX protein in corn.

In summary, the safety of the GOX protein to mammals, including humans, was confirmed by demonstrating the rapid degradation of the GOX protein

under conditions which simulate mammalian digestion, by establishing the lack of toxicity to rodents in an acute gavage study and by establishing the lack of allergenic concerns.

2. *Acute toxicity.* An acute mouse gavage study with GOX protein was performed to directly assess potential acute toxicity associated with this protein. No adverse effects were observed in mice dosed with GOX protein. Based on this study, in which the No-Observed-Effect-Level (NOEL) for toxicity of the protein administered as a single dose was considered to be 100 mg/kg (the highest tested target dose), no acute dietary risks are posed for infants, children or adults.

3. *Developmental/reproductive effects.* No instances of reported adverse reproductive or developmental effects to humans, domestic animals or wildlife as a result of exposure to the GOX protein or the microbial source of the gox gene, Achromobacter, are known. Enzyme proteins have not been reported in literature to produce teratogenic effects or reproductive deficiency when fed to animals or man (Pareza and Foster, 1983).

4. *Chronic effects.* In an *in-vitro* digestive fate study, the GOX protein was rapidly degraded in simulated gastric and intestinal fluid with more than 90% of the initially added GOX protein degraded after 15 and 30 seconds incubation, respectively, as detected by western blot analysis. Consequently, no chronic effects are expected for infants, children or adults.

5. *Carcinogenicity.* Protein enzymes are not considered to be carcinogenic (Pareza and Foster, 1983) and consequently, there is no carcinogenic risk associated with the GOX protein for infants, children or adults.

6. *Endocrine effects.* Not applicable. Enzyme proteins are not known to interact or bind directly with the estrogen receptor to produce endocrine effects. Further, there is little opportunity for systematic absorption of the GOX protein due to rapid degradation by digestive enzymes. Therefore, no adverse effects to the endocrine system is known.

C. Aggregate Exposure

1. *Dietary exposure.* Oral exposure to the GOX protein at very low levels may occur from ingestion of processed corn products; however, the lack of mammalian toxicity and the digestibility of the protein have been demonstrated as cited above.

2. *Drinking water exposure.* Transfer of the GOX protein to drinking water is highly unlikely given containment of the protein in plant cells and natural degradation upon plant senescence. Western blot analysis has indicated that the GOX protein was not present in corn pollen.

3. *Non-occupational exposure.* The GOX protein is produced at low levels as a selectable marker and is contained within the cells of the plant. Consequently, negligible exposure to the protein is expected from handling corn seed, leaf or other plant tissue at planting, during growth, or at harvest. In addition, negligible exposure to the GOX protein would be expected during storage, transportation, or disposal of insect-protected corn seed as the protein cannot drift or volatilize from the plant and its bioactivity is rapidly lost upon decomposition of the plant tissue.

D. Cumulative Risk

The GOX enzyme was isolated from an Achromobacter species and catyalyzes the degradation of glyphosate to aminomethylphosphonic acid (AMPA) and glyoxylate. This conversion of glyphosate to AMPA and glyoxylate is the primary route for the degradation of glyphosate. This degradation inactivates the herbicide and allows the plant cell expressing the GOX protein to grow in the presence of glyphosate. This mechanism is not shared by other known selectable markers used in initial laboratory stages of plant cell selection. Consideration of a common mode of toxicity is not appropriate given that there is no indication of mammalian toxicity of the GOX protein and no information that indicates that toxic effects would be cumulative with any other compounds.

E. Safety Determinations

1. *U.S. general population.* The toxicity profile for the GOX protein indicates no risk from exposure to the GOX protein by the overall U.S. population. Monsanto believes that the lack of acute toxicity, rapid digestibility of the GOX protein and lack of homology to known proteinaceous allergens or toxins provide evidence for the lack of toxicity and allergenicity and support an exemption from the requirement of a tolerance for the GOX protein.

2. *Infants and children.* Monsanto considers the acute toxicity data, the rapid degradation of the GOX protein in the mammalian digestive system and the lack of homology to known proteinaceous allergens as evidence to support the safety of this protein to infants and children. Based upon this evidence, it is not expected that infants and children would be more susceptible to this protein than is the adult population.

F. Residue Chemistry Data Summary

As a plant pesticide formulation inert ingredient, the gox gene was used to produce the GOX protein which confers tolerance to glyphosate as the selectable marker. The GOX protein is produced in plant tissues including grain and forage at low levels as documented above. Mammalian safety of the protein has been demonstrated in acute oral toxicity test of the GOX protein. Analytical methods for the detection and measurement of the GOX protein are not needed as Monsanto is petitioning for an exemption from the requirement of a tolerance on the basis of mammalian safety. The GOX protein is not on the Food and Drug Administration's Generally Recognized as Safe (GRAS) list.

G. Environmental Fate Data Summary

The GOX gene was cloned from an Achromobacter species, reported to be one of the most frequently occuring bacteria in the rhizosphere (Joos et al., 1988). The GOX protein is produced at low levels within the cells of the plant and expected to degrade at plant senescence and exposure to physical, chemical and microbial processes in the environment. (Mike Mendelsohn)

3. Seminis

PP 4E4310

A. Proposed Use Practices

Recommended application method and rate(s), frequency of application, and timing of application. The inserted genes are under the control of a constitutive promoter. Therefore, the viral coat proteins will be produced within the tissues of the genetically engineered plant and will not be applied externally. In information provided to commercial growers, the resistance of the engineered plants to specific plant viruses will be described. However, Seminis states that no special instructions for use will be necessary. Appropriate cultural practices for growing seed with genetically engineered virus resistance will be determined by individual growers, as such practices are for all other plant varieties.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* The pesticide consists of a pair of viral coat proteins that are produced by the genetically engineered plant. One protein consists of a fusion of 16 amino acids of the cucumber mosaic virus coat protein and 281 amino acids of the watermelon mosaic virus 2 coat protein. The molecular weight of the chimeric coat

protein is approximately 33,203. The second protein consists of 279 amino acids of the zucchini yellow mosaic virus coat protein with a molecular weight of approximately 31,458.

2. *Magnitude of residue anticipated at the time of harvest and method used to determine the residue.* The viral coat proteins are expressed in plant tissues and, therefore, are not residues in the same manner as a pesticide applied externally to growing crop plants. Seminis believes that little concern exists for the presence of viral coat proteins remaining on or in genetically engineered plants as they are ubiquitous in nature, found in soil, water, terrestrial plants and raw produce.

3. *A statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* The Enzyme-Linked Immunoabsorbent Assay (ELISA) test can be used to determine expression levels of viral coat proteins in transformed plants, fruits and leaves. However, the available scientific literature indicates that viral coat proteins do not pose a threat to human health or the environment at any level. Therefore, Seminis states that an analytical method for detecting and measuring the level of engineered viral coat proteins is not needed.

C. Mammalian Toxicological Profile

Viral coat proteins are substances that viruses produce during a plant infection to encapsulate and protect their genetic material. When the genetic material encoding the coat protein for a plant virus is introduced into a plant's genome, the plant is able to resist subsequent infections by that same virus as well as strains closely related to the donor virus. Virus-infected plants currently are and have been a part of both the human and domestic animal food supply, and Seminis agrees with EPA's finding that plant viruses are not known to be harmful to humans (59 FR 60519-60535, November 23, 1994)(FRL–4755–3). All available data from the scientific literature indicates that plant viruses are not toxic to humans or other vertebrates. Additionally, plant viruses are unable to replicate in mammals or other vertebrates, eliminating the possibility of human infection. This has been shown by injections of purified whole virus into laboratory animals to develop antibodies for ELISA tests.

More importantly, however, this tolerance exemption will apply to that portion of the viral genome coding for the whole coat protein and any sub-component of the coat protein expressed in the plant. This coat protein component alone is incapable of forming infectious particles. Because whole intact plant viruses are not known to cause deleterious human health effects, Seminis believes that it is reasonable to assume that a subunit of these viruses likewise will not cause adverse human health effects.

D. Aggregate Exposure

1. *Dietary exposure.* a. *Food.* Seminis states that the use of viral coat protein-mediated resistance will not result in significant new dietary exposure to plant viruses. Entire infectious particles of zucchini yellow mosaic virus and watermelon mosaic virus, including the coat protein component, are already found in the fruit and tissues of many plants. Virus-infected food plants are and have been a part of the human and domestic animal food supply. Such food plants and food derived from them have been consumed, including by children and infants, with no detectable or observed adverse effects to human health.

b. *Drinking water.* Seminis states that the use of viral coat protein-mediated resistance will not result in significant new levels of viral coat proteins from engineered plants in drinking water. Plant viruses are already present in soil and water. Viral coat proteins expressed in genetically engineered plants are limited to plant tissues. Upon plant senescence, viral coat proteins are believed to degrade in the soil in the same manner as other proteins. Consequently, Seminis believes that viral coat proteins produced as plant-pesticides would represent a negligible addition to those existing in drinking water.

2. *Non-dietary exposure (lawn care, topical insect repellents, etc.).* The use of the genetically engineered viral coat proteins is for improved virus disease resistance in agricultural crops. Therefore, Seminis believes that non-dietary exposure to genetically engineered viral coat proteins will be minimal to non-existent.

E. Cumulative Exposure

Exposure through other pesticides and substances with the common mode of toxicity as this pesticide. Seminis believes that due to the lack of toxicity associated with plant viruses and plant viral coat proteins, cumulative effects with other pesticides and substances will be non-existent.

F. Safety Determination

1. *U.S. population.* There is no known toxicity associated with coat proteins from plant viruses. Consequently, a safety assessment is not needed for these proteins. Given the long history of mammalian consumption of the entire plant virus particle in foods, without any adverse human health effects, Seminis reasonably believes that consumption of a non-infectious component of the WMV plant virus is safe. There are no known data that indicate aggregate exposure to plant viral coat proteins under normal conditions will result in harm to any person.

2. *Infants and children.* Viral coat proteins are ubiquitous in foods, including those foods consumed by infants and children. Moreover, there is not reason to believe that plant viral coat proteins are likely to occur in different amounts in foods consumed by children and infants. Further, there is no scientific evidence that viral coat proteins used as plant pesticides would have a different effect on children than on adults. Viral coat proteins are not toxic and, therefore, Seminis believes with reasonable certainty that no harm will result to Infants and Children from aggregate exposure to coat proteins from plant viruses.

G. Existing Tolerances

An exemption from tolerance was granted for watermelon mosaic virus-2 and zucchini yellow mosaic virus coat proteins as expressed in Asgrow line ZW20 of *Cucurbita pepo L.* in November 1994 (59 FR 54824, November 2, 1994)(FRL–4908–1).

H. International Tolerance

No known international tolerance or exemption from tolerance has been granted for watermelon mosaic virus-2 and zucchini yellow mosaic virus coat proteins. Seminis Vegetable Seeds, Inc. concludes that plant viruses, including watermelon mosaic virus-2 and zucchini yellow mosaic virus coat proteins, are not harmful to humans, and that there is a reasonable certainty that no harm will result from aggregate exposure to coat proteins of watermelon mosaic virus-2 and zucchini yellow mosaic virus, and the genetic material necessary for production, including all anticipated dietary exposures and all other non-occupational exposures. Accordingly, Seminis believes that watermelon mosaic virus-2 and zucchini yellow mosaic virus coat proteins qualify for an exemption from the requirement of a tolerance in or on all raw agricultural commodities. (Linda Hollis)

[FR Doc. 97–16659 Filed 6–24–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–746; FRL–5727–1]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–746, must be received on or before July 25, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch (7506C), Information Resources and Services Division, Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: James Boland, Regulatory Action Leader, Biopesticides and Pollution Prevention Division, (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 5th floor, CS1, 2800 Crystal Drive, Arlington, VA. 22202, (703) 308–8728; e-mail: boland.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–746] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF–746] and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 16, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Micro Flo Company

PP 7F4801

EPA has received a pesticide petition (PP 7F4801) from Micro Flo Company, P.O. Box 5948, Lakeland FL 33807, c/o SRA International, Inc., 1850 M St., N.W., Washington DC 20036 proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing an exemption from the requirement for a tolerance for residues of plant regulator *Bacillus cereus* BP01 when used in accordance with good agricultural practice as an active ingredient in pesticide formulations applied to growing crops.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Micro Flo has submitted the following summary of information, data, and arguments in support of its pesticide petition. This summary was prepared by Micro Flo and EPA has not fully evaluated the merits of the petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary was not clear that it reflected the conclusions of the petitioner and not necessarily EPA.

A. Proposed Use Practices

Micro Flo Company's *Bacillus cereus* BPO1 is a foliar-applied plant regulator. When combined with the plant growth regulator, mepiquat chloride, for use on cotton, it allows the grower to manage the cotton plant for short-season production leading to reduced risk of yield and quality loss due to delayed and prolonged harvest. Benefits derived from BPO1 in conjunction with mepiquat chloride include increased early boll retention and/or larger bolls, reduced plant height which provides a more open canopy, less boll rot, improved defoliation, less trash and lower ginning costs, better harvest efficiency and a darker leaf color. Micro Flo is currently exploring potential uses of BPO1 on other major row crops.

BPO1 is applied from early season when the cotton is actively growing and not under stress, through late season on fields that cut out and then regrow or on fields where the cotton does not completely cut out. Application rates,

depending on the cotton variety and its vigor, vary from 0.03 - 0.38 grams BPO1/A.

The maximum application level for BPO1 on cotton is 0.75 gram/acre/year, with an average of 0.2 g/acre/year. For row crops (e.g., corn, soybeans), the maximum application will be less than 2 g/acre/application and less than 20 g/acre/year. This tolerance exemption petition is for use of *Bacillus cereus* BPO1 up to 20 g/acre/year. There is a 30-day pre-harvest interval (PHI). Livestock should not be fed or permitted to graze on BPO1-treated cotton forage.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* The ATCC classification of Micro Flo's *Bacillus cereus* BPO1 is 55675. Only residues of BPO1 would be present, and these residues are indistinguishable from naturally-occurring *Bacillus cereus* without using specific genetic testing procedures for differentiating them.

2. *Magnitude of the residue anticipated at the time of harvest and the method used to determine the residue.* No magnitude of residue (MOR) studies have been conducted on BPO1 as total application rates are exceedingly low (Cotton: average, 0.2 g BPO1/acre/year; maximum, 0.75 g/acre/year; Other major row crops [e.g., soybeans, corn]: <20 g BPO1/acre/year) and it is toxicologically innocuous. The Pre-Harvest Interval (PHI) is currently 30 days. *Bacillus cereus* is indigenous and widespread throughout the United States and the rest of the world.

3. *Statement regarding the lack of need for an analytical method for detecting and measuring the levels of the pesticide residue.* As indicated above, the naturally-occurring population of *B. cereus* may make it impossible to distinguish between natural and introduced microbial populations without utilizing genetic differentiation techniques and therefore to establish and enforce tolerances for BPO1. In addition, the PHI is currently 30 days.

C. Mammalian Toxicity Profile

Acute mammalian toxicity studies via oral, dermal, inhalation, eye, intratracheal and intravenous routes were conducted with *Bacillus cereus* BPO1. No pathogenicity was observed. BPO1 was also tested for enterotoxin production; none was detected.

In a blood agar hemolysis assay conducted with BPO1, weak alpha hemolysis was observed. Based on the results of the above studies, subchronic, reproductive, teratology, chronic and mutagenicity studies were not deemed necessary.

D. Aggregate Exposure

1. *Dietary exposure—a. Food. Bacillus cereus* BPO1 is currently pending registration for use on cotton at rates up 0.75 g/A/year. Micro Flo Co. will, however, be evaluating BPO1 for future registration for use on other row crops (e.g., soybeans, corn) at rates less than 20 g/A/year. Considering the extremely low application rates, ubiquitous nature and natural occurrence of *Bacillus cereus*, the potential dietary exposure to BPO1 is minuscule.

b. *Drinking water. Bacillus cereus* BPO1 is prohibited on the label from direct application to water, although possible spray drift may contact drinking water. Again, considering the extremely low application rates, non-toxic mode of action, ubiquitous nature and natural occurrence of Bacillus cereus, the potential drinking water exposure to BPO1 is minuscule.

2. *Non-dietary exposure.* There is no anticipated non-dietary exposure to *Bacillus cereus* BPO1. Contact with naturally-occurring populations of *B. cereus* is common throughout the world. Residue exposure through contact with cotton seeds/oil and clothing produced from BPO1-treated cotton has been theoretically considered; residues are unlikely to be present after the delinting/cleaning process.

E. Cumulative Effects

Although there are other currently registered *Bacillus* products, some of which hold tolerance exemptions, their modes of action are unlike BPO1. Specifically, the other products typically produce enterotoxin which, when the bacteria producing it is consumed by insect pests, causes the pest to die. BPO1 does not produce enterotoxin, but instead appears to enable the target plant to more readily and efficiently uptake and utilize growth nutrients. BPO1 is a true growth regulator and to our knowledge does not have classic pesticidal activity. Maximum anticipated application rates are 0.75 g/A/year (cotton) and <20 g/A/year (major row crops including soybeans and corn). Based on the above, it is therefore felt that BPO1 should not be considered similar to existing Bacillus products.

F. Safety Determination

1. *U. S. population.* Since: (a) the maximum currently sought use rate is 0.75 g BPO1/A/year for use on cotton (and 20 g/A/year on other row crops for which registration applications have not been submitted), (b) the associated anticipated minute residue levels are extremely unlikely to add appreciably to the natural, indigenous background levels of *Bacillus cereus*, (c) BPO1 does not produce enterotoxin, and (d) the toxicity/pathogenicity/infectivity studies show virtually no negative effects, BPO1 should be considered safe when used on raw agricultural commodities and meets the reasonable certainty of no harm requirement.

2. *Infants and children.* As previously discussed, based on the minuscule quantities of BPO1 used, its lack of toxicity and pathogenicity, and its mode of action, it is exceedingly improbable that infants or children would be at greater risk to BPO1 exposure than would adults. BPO1 should be considered safe when used on raw agricultural commodities and meets the reasonable certainty of no harm requirement.

3. *Endocrine effects.* There is no evidence that BPO1 has endocrine disrupter effects individually or in combination with any other chemical. It is unlikely to be an endocrine disrupter or to have a synergistic endocrine effect in combination with other chemicals.

G. Existing Tolerances

1. *Existing U.S. tolerances or exemptions from the requirement of a tolerance.* There are no current tolerances or tolerance exemptions for *Bacillus cereus* strain BPO1.

2. *International tolerances or exemptions from the requirement of a tolerance.* There are no Codex Maximum Residue Levels or tolerance exemptions for *Bacillus cereus* strain BPO1.

[FR Doc. 97–16358 Filed 6–24–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–737; FRL–5719–7]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing a pesticide petition proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–737, must be received on or before July 25, 1997.

ADDRESSES: By mail submit written comments to: Public Information and

Records Integrity Branch, Information Resources and Services Division, (7506C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Rita Kumar, Product Manager(PM)90, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washinton, DC 20460. Office location, telephone number and e-mail address: 5th Floor, CS1, 2800 Cystal Drive, Arlington, VA 703-308-8291, e-mail: kumar.rita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–737] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (insert docket number) and appropriate petition number. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 17, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Micro Flo Company

PP 2E04064

The purpose of this submission is to summarize the information provided by Micro Flo Company to the EPA in support of the proposed change in beginning materials for the inert Cucurbitacin in the manufacturing process of Slam/Adios (EPA Reg. No. 51036–185) and Adios AG (EPA Reg. No. 51036–204). This amendment in the existing exmption is submitted pursuant to section 408 of the FFDCA.

This change in beginning materials will require an amendment to the existing tolerance exemption (40 CFR 180.1001(d)) for buffalo gourd root powder and cucurbitacins.

40 CFR 180.1001(d) reads:

Inert Ingredients	Limits	Uses
Buffalo Gourd Root Powder (*Cucurbita Foetidissima* root powder).	No more than 2.5 lbs/acre/season (3.4 gm/acre/season of Cucurbitacin)	Gustatory stimulant

Cucurbitacins, found in plant of the Family Cucurbitaceae, act specifically on Diabriticine beetles (corn rootworm and cucumber beetles) as movement arrestants and compulsive feeding stimulants. These have been used in pesticide products Slam/Adios and Adios AG, which were developed to replace highly toxic corn rootworm and cucumber beetle insecticides. When used along with cucurbitacin in the formulation, a much smaller amount of the pesticide active ingredient carbaryl is needed to achieve efficacy against these pests.

MicroFlo Company's current source of cucurbitacin is buffalo gourd root powder. The Agency established an exemption from the requirement of a tolerance for residues of buffalo gourd root powder (57 FR 40128, September 2, 1992). Now MicroFlo Company proposes to add zucchini juice as an alternative sources of cucurbitacin, since production of buffalo gourd root powder is costly and unreliable.

Micro Flo Company believes that the submission and supporting data, together with the Agency's earlier findings and determinations, satisfies the Agency's requirement for the demonstrations, buffalo gourd root powder (*Cucurbita foetidissima* root powder) and zucchini juice (*Cucurbita pepo* juice).

Based upon the information presented, Micro Flo Company believes that when used in accordance with good agricultural practice, the ingredient zucchini juice is useful and a tolerance is not necessary to protect the public health.

Therefore, Micro Flo Company proposes amending the existing tolerance exemption by only adding zucchini juice to the ''Inert Ingredients'' list, no change in ''Limits'' or ''Uses'' is proposed.

Proposed Amendment to 40 CFR 180.1001 (d):

Inert Ingredients	Limits	Uses
Buffalo Gourd Root Powder (*Cucurbita Foetidissima* root powder); or, Zucchini Juice (*Cucurbita pepo* juice).	No more than 2.5 lbs/acre/season (3.4 gm/acre/season of Cucurbitacin)	Gustatory stimulant

A. Proposed Use Practices

1. *Recommended application method and rate (s), frequency of application, and timing of application.* The formulation containing Zucchini Juice is to be applied according to good agricultural practice, by air or ground application method, when Diabroticine beetle populations reach the economic threshold and injury levels for the specific crop.

No change in the frequency of applications is proposed. The maximum number of applications will remain five (5) applications per crop growing season. The total amount of cucurbitacin will not exceed 3.4 gm/acre/season.

B. Product Identity And Chemistry

1. *Identity of the compound and corresponding residues.* The submitted product chemistry data for Zucchini Juice as an inert ingredient satisfy the requirements regarding product identity (151–10), beginning material and the manufacturing process (151–11), discussion of formation of unintentional ingredients (151–12), analysis of samples (151–13), certification of limits (151–15), analytical method (151–16), and physical / chemical properties (151–17). No additional data is required.

Name	EPA Shaunessy Number	Chemical identity	Composition
Buffalo Gourd Root Powder (*Cucurbita foetidissima* root powder).	128874 (Mar 90, Pesticide Data Submitters List)	Dry powder of plant derived from the cucurbit species *Cucurbita Foetidissima*	Root powder percent weight basis
Zucchini Juice Not Applicable		Juice Of Plant derived from the cucurbit species *Cucurbita pepo*	Fruit Juice Percent weight basis

The Product chemistries show similar nutritional profiles for each cucurbit species; and both cucurbit species are used as a food source for human consumption.

Component	Percent Weight Buffalo Gourd	Percent Weight Zucchini Juice Root Powder
Ash	8.44	4.85
Protein	15.4	3.78
Sugar ...	1.87	0.91
Moisture	10.0	66.7
Carbohydrate.	47.9	22.7
Fiber	18.0	1.2
Fat	0.25	0.77

2. *Magnitude of residue anticipated at the time of harvest and method used to determine the residue.* Based upon the proposed maximum number of applications, no residues are anticipated at harvest for Zucchini Juice (maximum 2.4375 pounds/acre/season); nor for Cucurbitacins (maximum 3.319875 grams/acre/season). Methods used to determine residues includes: high performance liquid chromatography (HPLC), mass spectrometry (MS), nuclear magnetic resonance spectra (NMRS), Rf values in normal phase thin layer chromatography (TLC), specific color reactions, and diabroticine beetle quantified feeding pattern bioassays.

3. A statement of why an analytical method for detecting and measuring the levels of the residue are not needed. There are several highly accurate, reliable and reproducible analytical methods available for detecting and measuring the levels of the residue of zucchini juice and cucurbitacins. Please see Section B–2 above.

C. Mammalian Toxicological Profile

1. *Acute toxicity.* The subject studies were found to be acceptable and performed in accordance with the Subdivision M Guidelines. Comparative toxicology data shows a more favorable toxicological profile for the Zucchini Juice (*Cucurbita pepo* juice), as compared to the Buffalo Gourd Root Powder (*Cucurbita foetidissima* root powder), as a cucurbit source of cucurbitacins.

The acute mammalian toxicity studies indicate that the Zucchini Juice is practically non-toxic to mammals. The acute oral, acute dermal, acute inhalation, primary eye, and skin irritation are all toxicity category IV. No acute systemic toxicity, irritation or dermal sensitization was exhibited in the studies performed with the Zucchini Juice.

2. *Chronic toxicity.* The proposed inert biochemical pesticide ingredient Zucchini Juice and the associated component cucurbitacin do not meet the conditions of 40 CFR 158.690 (b): based on the results of Tier I toxicology studies, neither Tier II nor III toxicology data are required.

Given the small amounts used and rapid degradation of Zucchini Juice and associated cucurbitacins, no chronic effects are expected. Neither the Zucchini Juice and associated cucurbitacins, nor metabolites, are known to, or expected to have any effect on the immune or endocrine systems. Zucchini Juice in general, and associated cucurbitacins are not carcinogenic.

D. Aggregate Exposure

1. *Dietary exposure*— a. *Food.* The petitioner presents the following dietary risk data and assessment on potential crop residues of Zucchini Juice. In accordance with 40 CFR 180.34, these data are presented to establish, theoretically, the residues that would remain under conditions most likely to result in high residues on the commodity.

Assumptions, for the purpose of this maximum dietary risk - worst case scenario, (case crop - corn; the example can be extended to other crops) include that the Zucchini Juice and thus, the cucurbitacin, is applied at the maximum label rate, the maximum number of times, the day of harvest, and all of the material applied to the field is concentrated in the grain; with no loss of Zucchini Juice nor cucurbitacin due to any environmental, physical, chemical microbial or milling / processing degradation. This will result in 2.4375 pounds of Zucchini Juice and 0.0073125 pounds (3.319875 grams) of cucurbitacins per acre.

The national average grain yield for corn is 120 – 130 bushels per acre. At 56 pounds per bushel, for the purpose of the calculation, we will use the lower yield value of 6,720 pounds per acre. The maximum label rates allow for the application of 3.4 grams of cucurbitacin per acre. Assuming all of the cucurbitacin is concentrated in the grain, cucurbitacin levels would be 0.00051 grams cucurbitacin per pound of grain corn.

It has been established that the cucurbitacins found in Zucchini Juice are Cucurbitacin E and Cucurbitacin E Glycoside, at concentrations of 0.2 – 0.3

percent. The acute oral LD50 values are: cucurbitacin E = 340 mg/kg: cucurbitacin E Glycoside = 40 mg/kg. For the purpose of the calculation, we will use the higher LD_{50} value of 40 mg/kg.

Assuming 50 kg human being as the average weight, the amount of cucurbitacin required to reach the Acute Oral LD_{50} is 2,000 mg (40 mg/kg × 50 kg). One pound of grain corn contains 0.51 milligrams cucurbitacin. This is 1/3922 of the amount of cucurbitacin a 50 kg person would have to ingest to reach the acute oral LD_{50} level. Therefore, to ingest 2,000 mg of cucurbitacin, a 50 kg person would need to consume 3,922 pounds of corn at one sitting. Alternatively, to ingest 2,000 mg of cucurbitacin, a 50 kg person would need to consume 11,013 ears of corn at one sitting, given an average weight of grain in one ear of corn is 0.36 pounds.

b. *Drinking water.* Cucurbitacins are insoluble in water and transfer of the zucchini juice to drink water is highly unlikely. No leaching or groundwater contamination is expected to result from registered uses according to good agricultural practice. No uses are registered for application to bodies of water and none are being sought.

2. *Non-dietary exposure such as lawn care, topical insect repellents, etc.* Registered uses are limited to agricultural crop production use.

E. Cumulative Exposure

Exposure through other pesticides and substances with the common mode of toxicity as this compound. Consideration of a common mode of toxicity is not appropriate given that the Zucchini Juice is practically non-toxic to mammals and no information indicates that toxic effects would be cumulative with any other compounds. Further, no other pesticides or substances are registered with this mode of toxicity.

F. Safety Determination

1. *U.S. population.* The fact that Zucchini Juice is practically non-toxic to mammals: that to ingest the Acute Oral LD_{50} level of 2,000 mg of cucurbitacin, a 50 kg person would need to consume 3,922 pounds of corn at one sitting; that Aggregate Exposure and Cumulative Exposure pose little, if any, risk at all; and previous Agency actions granting a temporary exemption (55 FR 49700, November 30, 1990), and establishing a permanent exemption from the requirement of a tolerance (57 FR 40128, September 2, 1992), support an amendment to the existing tolerance exemption.

2. *Infants and children.* The use sites for the Zucchini Juice are all agricultural for control of Diabroticine beetles. Therefore, nondietary exposure to infants and children is not expected. The fact that Zucchini Juice is practically non-toxic to mammals; that to ingest the Acute Oral LD_{50} level 40 mg of cucurbitacin, a 1 kg infant or child, would need to consume 78.44 pounds of corn at one sitting; and that Aggregate Exposure and Cumulative Exposure pose little, if any, risk at all; all provide reasonable certainty that no harm will result to infants and children from exposure to residue of Zucchini Juice.

G. Existing Tolerances

1. *Existing tolerance or tolerance exemptions for this compound.* Prior EPA findings of significant relevance to this petition include a temporary exemption from the requirements of a tolerance for residues of the kairomone, *Cucurbita foeidissima* root powder in or on the raw agricultural commodity field corn for control of adult corn rootworms (55 FR 49700, November 30, 1990).

In addition, the Agency established a permanent exemption from the requirement of a tolerance for residues of buffalo gourd root powder when used as an inert ingredient (gustatory stimulant) in pesticide formations applied to growing crops only (57 FR 40128, September 2, 1992).

40 CFR 180.1001 (d) reads:

Inert Ingredients	Limits	Uses
Buffalo Gourd Root Powder (*Cucurbita Foetidissima* root powder).	No more than 2.5 lbs/acre/season (3.4 gm/acre/season of Cucurbitacin)	Gustatory stimulant

2. *International tolerances or tolerance exemptions.* No international tolerances of tolerance exemptions have been sought.

[FR Doc. 97–16509 Filed 6–24–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–747; FRL–5728–4]

Monsanto Company; Pesticide Tolerance Petition Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by the docket control number PF–747, must be received on or before July 25, 1997.

ADDRESSES: By mail submit written comments to: Information and Records Integrity Branch, Public Information and Services Divison (7506C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Linda Hollis, Product Manager (PM) 90, Biopesticides and Pollution Prevention Division, (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 5th floor, CS1, 2800 Crystal Drive, Arlington, VA., 22202, (703) 308-8733; e-mail: hollis.linda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the

petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–747] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES''.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (PF–747) and appropriate petition number. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 19, 1997.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summary of Petition

Petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represent the views of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Monsanto Company

PP 7F4831

EPA has received a pesticide petition (PP 7F4831) from Monsanto Company of St. Louis Missouri. The petition proposes, pursuant to section 408 of the Federal Food Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a, to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the plant-pesticide Coat Protein of Potato Virus Y and the genetic material necessary for its production in or on all raw agricultural commodities.

A. Proposed Use Practices

Recommended application method and rate(s), frequency ofapplication, and timing of application. Monsanto states that the plant viral coat protein is produced within tissues of the engineered plant and is not to be applied externally. Appropriate cultural practices for growing seed with genetically engineered virus resistance will be determined by individual growers, such practices are for all other plant varieties. Accordingly, no special instructions for use will be necessary.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* Monsanto has determined that the sequence of the engineered viral coat protein expressed in transformed plants is identical to a viral coat protein found in nature.

2. *Magnitude of residue anticipated at the time of harvest and method used to determine the residue.* Monsanto states that the viral coat protein is expressed in plant tissues, and therefore, is not a residue in the same manner as a pesticide applied externally to growing crop plants. Monsanto does not expect any measurable residue of the engineered viral coat protein to remain on or in transformed raw agricultural commodities (RACs).

3. *A statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* The ELISA (Enzyme-Linked Immunoabsorbent Assay) test can be used to determine expression levels of viral coat proteins in transformed plants, fruits and leaves if the level of expression is high enough for detection. In Monsanto's assay, the amount of viral coat protein expressed is below the limit of detection and between 10–100-fold lower than the levels found in natural infections of potato with PVY. However, because the Agency proposes to exempt all plant virus coat proteins from the requirement of a tolerance, Monsanto believes that an analytical method for detecting and measuring the levels of viral coat proteins in or on all RACs is not required for enforcement purposes.

C. Mammalian Toxicological Profile

Viral Coat Proteins are substances that viruses produce during a plant infection to encapsulate and protect their genetic material. When the genetic material encoding the coat protein for a plant virus is introduced into a plant's genome, the plant is able to resist subsequent infections by that same virus as will as strains closely related to the donor virus. Virus-infected plants currently are and have always been a part of both the human and domestic animal food supply, and Monsanto agrees with EPA's finding, published in the **Federal Register** of November 23, 1994 (59 FR 60519–60535), that plant viruses are not known to be harmful to humans. All available data from the scientific literature indicates that plant viruses are not toxic to humans or other vertebrates. Additionally, plant viruses are unable to replicate in mammals or other vertebrates, eliminating the possibility of human infection. This has been shown by injections of purified whole virus into laboratory animals to develop antibodies for ELISA tests. More importantly, however, this tolerance exemption will apply to that portion of the viral genome coding for the whole coat protein and any subcomponent of the coat protein expressed in the plant. This component alone is incapable of forming infectious particles. Because whole intact plant viruses are not known to cause deleterious human health effects, Monsanto believes that it is reasonable to assume that a subunit of these viruses likewise will not cause adverse human health effects.

D. Aggregate Exposure

1. *Dietary exposure.*—a. *Food.* Monsanto believes that the use of viral coat protein-mediated resistance will not result in any new dietary exposure to plant viruses. Entire infectious particles of Potato Virus Y, including the coat protein component, are found in the fruit, leaves and stems of most plants. Virus-infected food plants are and have always been a part of the human and domestic animal food supply. Such food plants and food derived from them have been consumed with no detectable or observed adverse effects to human health, including children and infants. Given this information, Monsanto believes that exposure via the human diet provides a direct and better method of establishing the lack of toxicity versus animal models of toxicity.

b. *Drinking water.* No measurable residues of coat proteins from engineered plant viruses are expected to be in the drinking water. Plant viruses are a natural component of the environment and are present in soil and water. Consequently, Monsanto believes that coat proteins produced as plant-

pesticides would represent a negligible addition to those existing in drinking water.

2. *Non-dietary exposure.* Monsanto believes that non-dietary exposure to engineered coat proteins will be minimal to non-existent because the coat protein is expressed only within the plant tissues.

E. Cumulative Exposure

Exposure through other pesticides and substances with the common mode of toxicity as this pesticide. Monsanto believes that due to the lack of toxicity/pathogenicity associated with plant viruses or plant viral coat proteins, cumulative effects with other pesticides and substances will be non-existent.

F. Safety Determination

1. *U.S. population.* There is no known toxicity associated with coat proteins from plant viruses. Consequently, a safety assessment is not needed for these proteins. Given the long history of mammalian consumption of the entire plant virus particle in foods, without any adverse human health effects, Monsanto reasonable believes that consumption of a noninfectious component of the PVY plant virus is safe. There are no known data that indicate aggregate exposure to plant viral coat proteins under normal conditions will result in harm to any person.

2. *Infants and children.* Viral coat proteins are ubiquitous in foods, including those foods consumed by infants and children. Moreover, there is no reason to believe that plant viral coat proteins are likely to occur in different amounts in foods, consumed by children and infants. Further, there is no scientific evidence that viral coat proteins used as plant-pesticides would have a different effect on children than on adults. Viral coat proteins are not toxic and, therefore, Monsanto believes with reasonable certainty that no harm will result to infants and children from aggregate exposure to coat proteins from plant viruses.

G. Existing Tolerances

No tolerance or exemption from tolerance has been previously granted for PVY coat protein.

H. International Tolerance

No international tolerance or exemption from tolerance has been previously granted for PVY coat protein. Monsanto Company concludes that plant viruses, including PVY coat proteins, are not harmful to humans, and that there is a reasonable certainty that no harm will result from aggregate exposure to Coat Protein of Potato Virus Y and the genetic material necessary for its production, including all anticipated dietary exposures and all other non-occupational exposures. Accordingly, Monsanto believes that the PVY coat protein qualifies for an exemption from the requirement of a tolerance in or on all raw agricultural commodities.

[FR Doc. 97–16657 Filed 6–24–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–742; FRL–5723–2]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

DATES: Comments, identified by the docket control number PF–742, must be received on or before July 25, 1997.

ADDRESSES: By mail submit written comments to: Public Response and Program Resources Branch, Field Operations Divison (7505C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Linda Hollis, Product Manager (PM) 90, Biopesticides and Pollution Prevention Division, (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 5th floor, CS1, 2800 Crystal Drive, Arlington, VA. 22202, (703) 308–8733; e-mail: hollis.linda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various raw agricultural commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports grantinig of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice, as well as the public version, has been established for this notice of filing under docket control number PF–742 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (insert docket number) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 21 U.S.C. 346a.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 19, 1997.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summaries of Petitions

Below summaries of the pesticide petitions are printed. The summaries of the petitions were prepared by the petitioners. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Monsanto Company

PP 7F4836

EPA has received a pesticide petition (PP 7F4836) from Monsanto Company of St. Louis, Missouri. The petition proposes to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the plant pesticide Replicase Protein of Potato Leaf Roll Virus and the Genetic Material necessary for its production in or on all raw agricultural commodities.

A. Proposed Use Practices

Recommended application method and rate(s), frequency of application, and timing of application. Monsanto states that the plant viral replicase is produced within tissues of the engineered plant and is not to be applied externally. Appropriate cultural practices for growing potatoes with genetically engineered virus resistance will be determined by individual growers, as such practices are for all other plant varieties. Accordingly, no special instructions for use will be necessary.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* Monsanto has determined that the sequence of the engineered viral replicase gene transformed into potato plants is identical to a PLRV replicase gene found in nature.

2. *Magnitude of residue anticipated at the time of harvest and method used to determine the residue.* Monsanto states that the viral replicase protein is expressed in plant tissues, and therefore, is not a residue in the same manner as a pesticide applied externally to growing crop plants. Monsanto does not expect any measurable residue of the engineered viral replicase protein to remain on or in transformed raw agricultural commodities (RACs).

3. *A statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* The PLRV replicase protein is produced at a level that is not detectable by either ELISA (Enzyme-Linked Immunoabsorbent Assay) or by Western analysis. There has been no reason to develop a commercial to detect PLRV replicase in naturally infected potatoes, thus, Monsanto believes that there is no reason to determine the PLRV replicase content in these PLRV-resistant potatoes.

C. Mammalian Toxicological Profile

Replicase proteins are substances that viruses produce during a plant infection to replicate their genetic material. When the genetic material encoding the replicase gene for a plant virus is introduced into a plant's genome, the plant is able to resist subsequent infections by that same virus as will as strains closely related to the donor virus. Virus-infected plants are currently, and have always been, a part of both the human and domestic animal food supply. Monsanto believes that plants containing replicase proteins are not harmful to humans or animal that consume these foods. All available data from the scientific literature indicates that plant viruses are not toxic to humans or other vertebrates. Additionally, plant viruses are unable to replicate in mammals or other vertebrates, eliminating the possibility of human infection. This has been shown by injections of purified whole virus into laboratory animals to develop antibodies for ELISA tests. More importantly, however, this tolerance exemption will apply to that portion of the viral genome coding for the whole replicase protein. This component alone is incapable of forming infectious particles. Because whole intact plant viruses are not known to cause deleterious human health effects, Monsanto believes that it is reasonable to assume that a subunit of these viruses likewise will not cause adverse human health effects.

D. Aggregate Exposure

1. *Dietary exposure: Food.* Monsanto believes that the use of replicase protein-mediated resistance will not result in any new dietary exposure to plant viruses. Entire infectious particles of Potato Leafroll Virus, including the replicase component, are found in the tubers, leaves and stems of potato plants. Virus-infected food plants are and have always been a part of the human and domestic animal food supply. Such food plants and food derived from them have been consumed with no detectable or observed adverse effects to human health, including children and infants. Given this information, Monsanto believes that exposure via the human diet provides a direct and better method of establishing the lack of toxicity versus animal models of toxicity.

2. *Drinking water.* No measurable residues of replicase from engineered plant viruses are expected to be in the drinking water. Plant viruses are a natural component of the environment and are present in soil and water. Consequently, Monsanto believes that the replicase protein produced as plant-pesticides would represent a negligible addition to those existing in drinking water.

3. *Non-dietary exposure.* Monsanto believes that non-dietary exposure to engineered replicase proteins will be minimal to non-existent because the replicase protein is expressed only within the plant tissues.

E. Cumulative Exposure

Exposure through other pesticides and substances with the common mode of toxicity as this pesticide. Monsanto believes that due to the lack of toxicity/pathogenicity associated with plant viruses or plant viral replicase proteins, cumulative effects with other pesticides and substances will be non-existent.

F. Safety Determination

1. *U.S. population.* There is no known toxicity associated with replicase proteins from plant viruses. Consequently, a safety assessment is not needed for these proteins. Given the long history of mammalian consumption of the entire plant virus particle in foods, without any adverse human health effects, Monsanto reasonable believes that consumption of a noninfectious component of the PLRV plant virus is safe. There are no known data that indicate aggregate exposure to plant viral replicase proteins under normal conditions will result in harm to any person.

2. *Infants and children.* Viral replicase proteins are present in any food which have replicating virus. Potatoes routinely are infected by virus and these potatoes are consumed by infants and children. Moreover, there is no reason to believe that plant viral replicase proteins are likely to occur in different amounts in foods that are consumed by children and infants. Further, there is no scientific evidence that viral replicase proteins used as plant-pesticides would have a different effect on children than on adults. Viral replicase proteins are not toxic and, therefore, Monsanto believes with

reasonable certainty that no harm will result to infants and children from aggregate exposure to replicase proteins from plant viruses.

G. Existing Tolerances

No tolerance or exemption from tolerance has been previously granted for PLRV replicase.

H. International Tolerance

No international tolerance or exemption from tolerance has been previously granted for PLRV replicase protein. Monsanto Company concludes that plant viruses, including PLRV replicase proteins, are not harmful to humans, and that there is a reasonable certainty that no harm will result from aggregate exposure to Replicase Protein of Potato Leafroll Virus and the genetic material necessary for its production, including all anticipated dietary exposures and all other non-occupational exposures. Accordingly, Monsanto believes that the PLRV protein qualifies for an exemption from the requirement of a tolerance in or on all raw agricultural commodities.

2. Mycogen Corporation

PP 7G4823

EPA has received a pesticide petition (PP) 7G4823 from Mycogen Corporation of San Diego, California. The petition proposes to amend 40 CFR part 180 by establishing a temporary exemption from the requirement of a tolerance for residues of the Cry1F derived delta endotoxin of *Bacillus thuringiensis* encapsulated in killed Pseudomonas fluorescens in or on all raw agricultural commodities.

A. Proposed Use Practices

Recommended application method and rate(s), frequency of application, and timing of application. Mycogen Corporation proposes to conduct testing under an Experimental Use Permit using 11,365 gallons of an end-use formulation containing the Cry1F derived delta endotoxin of *Bacillus thuringiensis* encapsulated in killed Pseudomonas fluorescens. The testing will occur during a two-year experimental program in Alabama, Arizona, California, Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, South Carolina, Texas, Virginia and Puerto Rico. The total acreage for all sites over the two-year period will cover 2,740 acres.

The trials conducted will focus on control of armyworm, looper and cutworm pests in vegetable, field crop, legume, turf and ornamental, nut crop, stone and pome fruit, small fruit and berry, and herb commodities. Weekly and biweekly treatments with 7 and 3 to 4 day intervals will be evaluated starting shortly after plant emergence through whorl stage and, in selected cases, through harvest. Five rates at 0.5, 1, 2, 3, and 4 quarts per acre will be tested. Applications will be made using the conventional tractor-mounted spray booms operated by cooperating growers. Spray volumes of 25 to 100 GPA and pressures of 50 to 250 psi will be targeted.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues.* The Cry1F delta endotoxin gene from *Bacillus thuringiensis* variety aizawai has been cloned and expressed in the gram negative bacterium Pseudomonas fluorescens. The Pseudomonas fluorescens host bacteria is then killed, thereby encapsulating the Cry1F delta endotoxin. The product is a light brown liquid with a slight earthy odor. The formulation is stable and non-corrosive with a pH of 4.86 and a density of 1.061 g/cm3. The viscosity was measured to be 1,379 cps.

2. *Magnitude of residue anticipated at the time of harvest and method used to determine the residue.* Mycogen expects the residue of the Cry1F derived delta endotoxin of *Bacillus thuringiensis* encapsulated in killed Pseudomonas fluorescens will be minimal at time of harvest due to the rapid degradation of the killed cells in the environment. In situations where treatments are made just prior to harvest, Mycogen believes residues on the commodity will not present any risk to human or animal health based on the established toxicology data and historical safe use of products containing delta endotoxins derived from *Bacillus thuringiensis* encapsulated in killed Pseudomonas fluorescens. Mycogen's petition for a temporary exemption from the requirement of a tolerance eliminates the need to determine the residue at time of harvest.

3. *A statement why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* Mycogen states that residues of the Cry1F derived delta endotoxin of *Bacillus thuringiensis* encapsulated in killed Pseudomonas fluorescens at any level will not pose a threat to human health or to the environment. Mycogen is requesting a temporary exemption from the requirement of a tolerance for residues on all raw agricultural commodities; therefore, this action should prevent the need to quantify residues on food or feed commodities.

C. Mammalian Toxicological Profile

The aizawai strain of *Bacillus thuringiensis*, which produces the Cry1F delta endotoxin, is used commercially in several registered pesticide products based on the general tolerance exemption established under 40 CFR 180.1011. To confirm the human safety of the Cry1F derived delta endotoxin encapsulated in killed Pseudomonas fluorescens, Mycogen conducted an acute oral LD_{50} toxicity study using the technical material. The acute oral LD_{50} was determined to be greater than 5,000 mg/kg body weight.

Extensive toxicology tests have been performed by Mycogen with similar encapsulated delta endotoxins derived from *Bacillus thuringiensis*. Mycogen states that no toxic effects were observed for any of the organisms tested, including mammals, birds, fish and aquatic invertebrates.

D. Aggregate Exposure

1. *Dietary exposure: Food.* Mycogen states that any dietary exposure to the Cry1F derived delta endotoxin of *Bacillus thuringiensis* encapsulated in killed Pseudomonas fluorescens will not present a risk to human or animal health due to the nontoxic properties of the killed organism. Dietary exposure is suggested to be minimal as the killed cells breakdown in the environment into natural biochemical components.

2. *Drinking water.* Mycogen believes the immobility of the cells prevents transfer of the killed organism to aquatic habitats, groundwater or other drinking water sources.

3. *Non-dietary exposure.* The use of the encapsulated Cry1F derived delta endotoxin under a controlled Experimental Use Permit will mitigate the potential for non-occupational exposure. The product will be used only by participants in the experimental program, and applications will involve terrestrial food crops on commercial agricultural property. The product will not be used on sites involving schools, parks or recreation facilities, or any other site not listed on the experimental product label.

E. Cumulative Exposure

Like native strains of *Bacillus thuringiensis*, the encapsulated Cry1F derived delta endotoxin has a highly targeted mode of action on specific insect pests. This unique mode of action is a distinguishing factor of *Bacillus thuringiensis* delta endotoxins versus traditional chemistries. No cumulative exposure will occur with other pesticides and substances as a result of common mode of toxicity. Mycogen

believes normal use patterns and rapid degradation of the organism will not lead to accumulation of the killed cells in the environment.

F. Safety Determination

1. *U.S. population.* Toxicology information regarding delta endotoxins derived from *Bacillus thuringiensis* is well established. During the widespread use of *Bacillus thuringiensis* over several decades for pest control purposes there has not been any confirmed reports indicating toxicity to humans or animals. In the Draft Registration Standard for *Bacillus thuringiensis*, EPA Case No. 0247 dated December 1986, EPA stated that the delta endotoxin in *Bacillus thuringiensis* ''has no known toxic pathogenic effect in humans or other mammals.''

2. Infants and Children. Mycogen states that the Cry1F derived delta endotoxin of *Bacillus thuringiensis* encapsulated in killed Pseudomonas fluorescens is practically non-toxic to humans and presents minimal risk to the environment. A determination of safety for infants and children can be made based on: (a) the established toxicology database demonstrating no mammalian toxicity; (b) the historical safe use of similar products using delta endotoxins from *Bacillus thuringiensis*; (c) the lack of persistence and mobility of the killed cells in the environment; and (d) the absence of use patterns under the Experimental Use Permit which may lead to exposure to infants and children.

G. Effects on the Immune and Endocrine Systems

Mycogen states that the toxicology database on delta endotoxins derived from *Bacillus thuringiensis* demonstrate no toxicity to mammalian immune or endocrine systems. Using the encapsulation process to effectively kill all cells ensures that no metabolic byproducts are produced which could potentially present an adverse effect to the immune or endocrine systems. The decomposition of the killed cells in the environment and in mammalian metabolic systems will not lead to adverse effects to the immune or endocrine systems.

H. Existing Tolerances

Strains of *Bacillus thuringiensis* are approved for use on raw agricultural commodities under the general tolerance exemption established by 40 CFR 180.1011. The gene encoding the Cry1F delta endotoxin is derived from *Bacillus thuringiensis* variety aizawai. Several products registered with EPA currently use the aizawai strain and are exempt from the requirement of a tolerance.

The use of other similar delta endotoxins derived from *Bacillus thuringiensis* and encapsulated in killed Pseudomonas fluorescens are approved under 40 CFR 180.1107, 180.1108, and 180.1154. The encapsulated Cry1F derived delta endotoxin was already previously approved on April 29, 1994 under a temporary tolerance exemption from Mycogens Petition Number 3G4224.

[FR Doc. 97–16658 Filed 6–24–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–59360; FRL–5727–5]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–97–6. The test marketing conditions are described below.

DATES: This notice becomes effective June 18, 1997. Written comments will be received until July 10, 1997.

ADDRESSES: Written comments, identified by the docket control number [OPPT–59360] and the specific TME number should be sent to: TSCA Nonconfidential Information Center (NCIC), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. NEB–607 (7407), 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@epamail.epa.gov. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by [OPPT–59360]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: Shirley D. Howard, New Chemicals Notice Management Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–611, 401 M St. SW., Washington, DC 20460, (202) 260–3780. e-mail: howard.sd@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME–97–6. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

A notice of receipt of this application was not published in advance of approval. Therefore, an opportunity to submit comments is being offered at this time. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that this test marketing activity will not present an unreasonable risk of injury.

The following additional restrictions apply to TME–97–6. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME–97–6

Date of Receipt: May 16, 1997. The extended comment period will close (*insert date 15 days after the date of publication in the* **Federal Register**).

Applicant: Reichhold Chemicals Inc.

Chemical: (G) Polyurethane Adhesive.

Use: (G) Hot melted adhesive.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Confidential. Commencing on first day of commercial manufacture.

Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, test marketing exemptions.

Dated: June 18, 1997.

Flora Chow,

Chief, New Chemicals Notice Management Branch, Office of Pollution Prevention and Toxics.

[FR Doc. 97–16656 Filed 6–24–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

June 19, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before August 25, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commissions, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0XXX.

Title: Accounting for Judgements and Other Costs Associated with Litigation, CC Docket No. 93–240.

Form No: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1.

Estimated Hour Per Response: 36 hours.

Frequency of Response: On occasion reporting requirement.

Estimated Total Annual Burden: 36 hours.

Needs and Uses: In CC Docket No. 93–240, the Commission considers the issue of the accounting rules and ratemaking policies that should apply to litigation costs incurred by carriers subject to Part 32 of its rules and regulations. The Commission concludes that there should be special rules to govern the accounting treatment of federal antitrust judgements and settlements, in excess of the avoided costs of litigation, but not for litigation expenses. The Commission further concludes that these special rules should not apply to costs arising in other kinds of litigation. To receive recognition of its avoided costs of litigation, a carrier must demonstrate, in a request for special relief, the avoided costs of litigation by showing the amount corresponding to the additional litigation expenses discounted to present value, that the carrier reasonably estimates it would have paid if it had not settled. A carrier requesting recovery of the avoided costs of litigation must accompany its request with clear and convincing evidence that, without the settlement, it would have incurred the expenses it estimates.

OMB Control No.: 3060–0760.

Title: Access Charge Reform, CC Docket No. 96–272 (First Report and Order).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Estimated Annual Burden: 13 respondents; 138,714 hours per response (avg.); 1,803,282 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $31,200.

Frequency of Response: On occasion reporting requirement.

Needs and Uses: In the Access Charge Reform First Report and Order, the Commission adopts, that, consistent with principles of cost-causation and economic efficiency, non-traffic sensitive (NTS) costs associated with local switching should be recovered on an NTS basis, through flat-rated, per month charges. The information collections resulting from this Report and Order are as follows. The information collected would be submitted to the FCC by incumbent LECs for use in determining whether the incumbent LECs should receive the regulatory relief proposed in the Order. Compliance is mandatory.

a. Showings under the Market-Based Approach. As competition develops in the market, the FCC will gradually relax and ultimately remove existing Part 69 federal access rate structure requirements and Part 61 price cap restrictions on rate level changes. Regulatory reform will take place in two phases. The first phase of regulatory reform will take place when an incumbent LEC network has been opened to competition for interstate access services. Detariffing will take place when substantial competition has developed for the access charge elements. We proposed that in order for LECs to meet this standard, they have to demonstrate that: (1) Unbundled network element prices are based on geographically deaveraged, forward-looking economic costs in a manner that reflects the way costs are incurred; (2) transport and termination charges are based on the additional cost of

transporting and terminating another carrier's traffic; (3) wholesale prices for retail services are based on reasonably avoidable costs; (4) network elements and services are capable of being provisioned rapidly and consistent with a significant level of demand; (5) dialing parity is provided by the incumbent LEC to competitors; (6) number portability is provided by the incumbent LEC to competitors; (7) access to incumbent LEC rights-of-way is provided to competitors; and (8) open and non-discriminatory network standards and protocols are put into effect. The second phase of rate structure reforms will take place when an actual competitive presence has developed in the marketplace. We propose that the second phase of rate structure reforms would take place when an actual competitive presence has developed in the marketplace. LECs would have to show the following to indicate that actual competition has developed in the marketplace by: (1) Demonstrated presence of competition; (2) full implementation of competitively neutral universal service support mechanisms; and (3) credible and timely enforcement of pro-competitive rules. (Number of respondents: 13; annual hour burden per respondent: 137,986; total annual burden 1,793,818).

b. Cost Study of Local Switching Costs: The FCC does not establish a fixed percentage of local switching costs that incumbent LECs must reassign to the Common Line basket or newly created Trunk Cards and Ports service category as NTS costs. In light of the widely varying estimates in the record, we conclude that the portion of costs that is NTS costs likely varies among LEC switches. Accordingly, we require each price cap LEC to conduct a cost study to determine the geographically-averaged portion of local switching costs that is attributable to the line-side ports, as defined above, and to dedicated trunk side cards and ports. These amounts, including cost support, should be reflected in the access charge elements filed in the LEC's access tariff effective January 1, 1998. (Number of respondents: 13; annual hour burden per respondent: 400 hours; total annual hours: 5200).

c. Cost Study of Interstate Access Service that Remain Subject to Price Cap Regulation: The 1996 Act has created an unprecedented opportunity for competition to develop in local telephone markets. We recognize, however, that competition is unlikely to develop at the same rate in different locations, and that some services will be subject to increasing competition more rapidly than others. We also recognize, however, that there will be areas and services for which competition may not develop. We will adopt a prescriptive ''backstop'' to our market-based approach that will serve to ensure that all interstate access customers receive the benefits of more efficient prices, even in those places and for those services where competition does not develop quickly. To implement our backstop to market-based access charge reform, we require each incumbent price cap LEC to file a cost study no later than February 8, 2001, demonstrating the cost of providing those interstate access services that remain subject to price cap regulation because they do not face substantial competition. (Number of respondents: 13; annual hour burden per respondent: 8 hours; total annual burden: 104 hours).

c. Tariff Filings. The Commission also adopts several information collections relating to tariff filings. Specifically, the Commission adopts its proposals to require the filing of various tariffs, with modifications. For example, the FCC directs incumbent LECs to establish separate rate elements for the multiplexing equipment on each side of the tandem switch. LECs must establish a flat-rated charge for the multiplexers on the SWC side of the tandem, imposed pro-rate on the purchasers of the dedicated trunks on the SWC side of the tandem. Multiplexing equipment on the EO side of the tandem shall be charged to users of common EO-to-tandem transport on a per-minute of use basis. These multiplexer rate elements must be included in the LEC access tariff filings to be effective January 1, 1998. (Number of respondents: 13; annual hour burden per respondent: 320 hours; total annual burden: 4160 hours).

OMB Approval No.: 3060–0625.

Title: Section 24.237, Amendment of the Commission's Rules to Establish New Personal Communications Services (Interference Protection).

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; business or other for-profit entities; not-for-profit institutions; state, local or tribal governments.

Number of Respondents: 100.

Estimated Hour Per Response: 2 hours.

Frequency of Response: On occasion reporting requirement.

Estimated Total Annual Burden: 200 hours.

Needs and Uses: Broadband PCS licensees were required to file materials demonstrating their compliance with Sections 24.203, 24.204 and Section 24.237(b) of the Commission's rules. Collection of information for Section 24.203 received OMB approval under OMB control number 3060–0621. Section 24.204 has been removed from the Commission's rules. Section 24.237(b) requires licensees who unable to solve their interference problems to report their coordination process to the Commission. The Commission will use this information to resolve interference problems.

OMB Approval No.: 3060–0626.

Title: Regulatory Treatment of Mobile Services.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents: 10–100.

Number of Recordkeepers: 500.

Estimated Hour Per Response: .5–10.9 hours.

Frequency of Response: Recordkeeping and on occasion reporting requirements.

Estimated Total Annual Burden: 6,923 hours.

Needs and Uses: This information collection provides the Commission with technical, operational and licensing data for common carriers and private mobile radio services. This information is necessary to establish regulatory symmetry among similar mobile services. Without this information, the Commission could not fill its statutory obligations.

OMB Approval No.: 3060–XXXX.

Title: Section 68.110(c), Availability of Inside Wiring Information.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 200.

Estimated Hour Per Response: 1 hour per response; 6 hours per respondent annually.

Frequency of Response: On occasion reporting requirement.

Estimated Total Annual Burden: 1,200 hours.

Needs and Uses: In CC Docket No. 88–57, the Commission amended rules defining the demarcation point to: (1) Clarify the location, within 12 inches at the point at which it enters the customer's premises; (2) indicate only major additions or rearrangements of existing wire are to be treated as new installations; (3) allow owners of multiunit buildings to restrict their customer access to only that wiring with a tenant's individual unit; and (4) require telephone companies to provide

building owners with all available information regarding carrier-installed wiring on the customer's side of the demarcation point. Building owners will be able to contract with an installer of their choice for maintenance and installation service, or elect to contract with the telephone company to modify existing wiring or assist with the installation of additional inside wiring.

OMB Approval No.: 3060–0745.

Title: Implementation of the Local Exchange Carrier Tariff Streamlining Provisions in the Telecommunications Act of 1996, CC Docket 96–187.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 110.

Estimated Hour Per Response: 37.18 hours (avg).

Frequency of Response: On occasion reporting requirement.

Estimated Total Annual Burden: 4,090 hours.

Needs and Uses: In CC Docket No. 96–187, the Commission adopted measures to implement the specific streamlining tariff filing requirements for local exchange carriers (LECs) of the Telecommunications Act of 1996. In order to achieve a streamlined and deregulatory environment for local exchange carrier tariff filings, the item will permit local exchange carriers to file tariffs electronically.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–16571 Filed 6–24–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

June 18, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 25, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0448.

Title: Section 63.07, Special procedures for non-dominant domestic common carriers.

Type of Review: Reinstatement without change, of a previously approved collection for which approval has expired.

Respondents: Business or other for-profit.

Number of Respondents: 5.

Estimate Hour Per Response: 100 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: N/A.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 500 hours.

Needs and Uses: Where a communications facility may have a significant effect on the environment, the Commission's rules implement federally mandated laws by requiring applicants and licensees to submit environmental assessments and undergo environmental review. Section 63.07 subjects domestic, facilities-based common carriers to the same requirements as all other FCC-regulated entities. Specifically, a common carrier is required to ascertain whether its facility may have a significant environmental effect, and if so, the carrier must submit an environmental assessment and await the completion of environmental review prior to commencing construction. Where the circumstances warrant the filing of an environmental assessment, the information contained therein, is reviewed by Commission staff attorneys, engineers and paraprofessionals. In addition to reviewing the environmental assessment, the Commission staff also solicits the views of other agencies with relevant expertise in order to determine whether the facility will have a significant environmental effect. The Commission staff then informs the carrier of its findings, and affords the carrier the opportunity to ''reduce, minimize or eliminate'' the environmental problems. In the event the environmental problem remains, the agency is required to prepare Environmental Impact Statements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–16572 Filed 6–24–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Affordable Housing Advisory Board Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., announcement is hereby published of the Affordable Housing Advisory Board (AHAB) meeting. The meeting is open to the public.

DATES: The Federal Deposit Insurance Corporation, Affordable Housing Advisory Board will hold its first meeting of 1997 on Thursday, July 10, 1997 in Washington, DC, from 9:00 a.m. to 12 Noon.

ADDRESSES: The meeting will be held at the following location: Federal Deposit Insurance Corporation, Board Room, 550 17th Street, Northwest, Washington, DC 20429.

FOR FURTHER INFORMATION CONTACT: Danita M.C. Walker, Committee Management Officer, Federal Deposit Insurance Corporation, 1776 F Street, NW., Room 3038, Washington, DC 20429, (202) 898–6711.

SUPPLEMENTARY INFORMATION: The Board consists of the Secretary of Housing and Urban Development (HUD) or delegate;

the Chairperson of the Board of Directors of the FDIC, or delegate; the Chairperson of the Oversight Board, or delegate; four persons appointed by the General Deputy Assistant Secretary of HUD who represent the interests of individuals and organizations involved in using the affordable housing programs, and two former members of the Resolution Trust Corporation's Regional Advisory Boards. The AHAB's original charter was issued March 9, 1994, and a re-charter was issued on February 26, 1996.

Agendas: An agenda will be available at the meeting. At the general session, the Board will (1) Report on FDIC status of the Affordable Housing Program, (2) Discuss consolidation of the Monitoring & Compliance Service Center tasks under the Dallas Service Center, (3) Discuss status of legislative changes for Board's meeting schedule, and (4) Discuss other policies and programs related to the provision of affordable housing. The AHAB will develop recommendations at the conclusion of the Board meeting. The AHAB's chairperson or its Delegated Federal Officer may authorize a member or members of the public to address the AHAB during the public forum portion of the session.

Statements: Interested persons may submit, in writing, data, information or views on the issues pending before the Affordable Housing Advisory Board prior to or at the general session of the meeting. Seating for the public is available on a first-come first-served basis.

Dated: June 20, 1997.

Danita M.C. Walker,

Committee Management Officer, Federal Deposit Insurance Corporation.

[FR Doc. 97–16592 Filed 6–24–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1177–DR]

Idaho; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Idaho (FEMA–1177–DR), dated June 13, 1997, and related determinations.

EFFECTIVE DATE: June 13, 1997.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 13, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Idaho, resulting from severe storms, snowmelt, land and mud slides, and flooding on March 14, 1997, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Idaho.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert C. Freitag of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Idaho to have been affected adversely by this declared major disaster:

Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–16640 Filed 6–24–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1178–DR]

Mississippi; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–1178–DR), dated June 13, 1997, and related determinations.

EFFECTIVE DATE: June 13, 1997.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 13, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Mississippi, resulting from flooding on February 28–April 21, 1997, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Mississippi.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts, as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Paul W. Fay, Jr. of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Mississippi to have

been affected adversely by this declared major disaster:

Bolivar, Tunica, Warren and Washington Counties for Individual Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–16639 Filed 6–24–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1136–DR]

Puerto Rico; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Puerto Rico (FEMA–1136–DR), dated September 11, 1996, and related determinations.

EFFECTIVE DATE: June 12, 1997.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 12, 1997, the President amended the cost-sharing arrangements concerning Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 51521 *et seq.*), in a letter to James L. Witt, Director of the Federal Emergency Management Agency, as follows:

I have determined that the damage in certain areas of the Commonwealth of Puerto Rico, resulting from Hurricane Hortense on September 9–11, 1996, is of sufficient severity and magnitude that special conditions are warranted regarding the cost-sharing arrangements concerning Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act'') for the Public Assistance program.

Therefore, I amend my previous declaration to authorize Federal funds for Public Assistance at 90 percent of total eligible costs. This 90 percent reimbursement applies to all eligible Public Assistance costs.

This adjustment to State and local cost sharing applies only to Public Assistance costs eligible for such adjustment under the law. The law specifically prohibits a similar adjustment for funds provided to States for Individual and Family Grant and Hazard Mitigation programs. These funds will continue to be reimbursed at 75 percent of total eligible costs.

Please notify the Governor of the Commonwealth of Puerto Rico and the Federal Coordinating Officer of this amendment to my major disaster declaration.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 97–16642 Filed 6–24–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1173–DR]

South Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of South Dakota, (FEMA–1173–DR), dated April 7, 1997, and related determinations.

EFFECTIVE DATE: June 17, 1997.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of South Dakota, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 7, 1997:

Shannon County for Categories C through G under the Public Assistance program (already designated for Individual Assistance, Hazard Mitigation, and Categories A and B under the Public Assistance program).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–16641 Filed 6–24–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 052697 AND 060697

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Benjamin Moore & Co., Gregory M. Licht, J.C. Licht Company	97–2131	05/27/97
Benjamin Moore & Co., Mark S. Licht, J.C. Licht Company	97–2132	05/27/97
Bankers Trust New York Corporation, NationsBank Corporation, NationsBank Corporation	97–2141	05/27/97
OccuSystems, Inc., CRA Managed Care, Inc., CRA Managed Care, Inc	97–2143	05/27/97
CRA Managed Care, Inc., OccuSystems, Inc., OccuSystems, Inc	97–2144	05/27/97
Mellon Bank Corporation, Buck Consultants, Inc., Buck Consultants, Inc	97–2145	05/27/97
Bruckmann, Rosser, Sherrill & Co., L.P., RJR Nabisco Holdings Corp., Nabisco, Inc. and Nabisco Brands Company	97–2146	05/27/97
The Goldman Sachs Group, L.P., Stockton Holdings Limited (a Bermudan company), Stockton Holdings Limited; Commodities Corporation Limi	97–2150	05/27/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 052697 AND 060697—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Boise Cascade Corporation, Boise Marketing Services Inc. (Joint Venture), Boise Marketing Services Inc. (Joint Venture)	97–2151	05/27/97
Trustees of the University of Pennsylvania, The Contributors to the Pennsylvania Hospital, The Contributors to the Pennsylvania Hospital	97–2155	05/27/97
JP Foodservice, Inc., Mazo-Lerch Company, Inc., Mazo-Lerch Company, Inc	97–2164	05/27/97
Cott Corporation, Royal Crown Bottling Company of Chicago, Royal Crown Bottling Company of Chicago	97–2165	05/27/97
Fresenius Aktiengesellschaft, QCI Holings, Inc., OCI Holdings, Inc	97–2166	05/27/97
Jordan Industries, Inc., Donald J. and Lois A. Sitter (Husband and Wife), LoDan West, Inc.; L/D West Inc	97–2167	05/27/97
Brynwood Partners III L.P., RPM, Inc., Craft House Corporation	97–2170	05/27/97
Tele-Communications, Inc., Kearns-Tribune Corporation, Kearns-Tribune Corporation	97–2171	05/27/97
Fluor Corporation, Industriforvaltnings AB Kinnevik, SMA Equipment Co., Inc.; SMA Information Systems Inc	97–2172	05/27/97
Equus II Incorporated, SolarCo., Inc., SolarCo., Inc	97–2173	05/27/97
Dairy Fresh Corporation, Fleming Companies, Inc., Dairy Fresh of Louisiana, Inc	97–2174	05/27/97
DLJ Merchant Banking Partners II, L.P., Terence J. Gooding, Wavetek Corporation	97–2179	05/27/97
Tetra Tech, Inc., Daniel A. Whalen, Whalen & Company, Inc.; Whalen Service Corps, Inc	97–2208	05/27/97
Daniel A. Whalen, Tetra Tech, Inc., Tetra Tech, Inc	97–2209	05/27/97
Kaydon Corporation, Hein-Werner Corporation, Great Bend Industries Division	97–1808	05/28/97
Urohealth Systems, Inc., Imagyn Medical, Inc., Imagyn Medical, Inc	97–2049	05/28/97
Reilly Family Limited Partnership, Richard W. Headrick, Headrick Outdoor, Inc	97–0282	05/29/97
Charles E. Hurwitz, Reynolds Metals Company, Reynolds Metals Company	97–1919	05/29/97
John A. Telesio, Republic Industries, Inc., Republic Industries, Inc	97–2011	05/29/97
Republic Industries, Inc., John A. Telesio, Consolidated Disposal Service, Inc	97–2012	05/29/97
Ontario Teachers' Pension Plan Board, Fisher Scientific International Inc., Fisher Scientific International Inc	97–2127	05/29/97
Samsung Electronics Co., Ltd., The 3DO Company, The 3DO Company	97–2175	05/29/97
Siebe plc, APV plc, APV plc	97–2180	05/29/97
Host Marriott Corporation, Marriott International, Inc., Forum Group, Inc	97–2188	05/29/97
Jerry C. Moyes, Caliber Systems, Inc., Southwestern Division, Viking Freight, Inc	97–2190	05/29/97
Interpublic Group of Companies, Inc. (The), C. Todd Mahony, Integrated Communciations Corp	97–2191	05/29/97
Interpublic Group of Companies, Inc. (The), Jeffrey A. Rich, Integrated Communications Corp	97–2192	05/29/97
Interpublic Group of Companies, Inc. (The), Advantage International Holdings, Inc., Advantage International Holdings, Inc	97–2193	05/29/97
Boston Ventures Limited Partnership V, Sygnet Wireless, Inc., Sygent Wireless, Inc	97–2195	05/29/97
Transworld Home HealthCare, Inc., Health Management, Inc., Health Management, Inc	97–2197	05/29/97
River III, L.P., Westinghouse Electric Corporation, Westinghouse Environmental & Geotechnical Service, Inc	97–2199	05/29/97
N.V. Koninklijke Nederlandshe Petroleum Maatschappij, NOVA Corporation (a Canadian corporation), Chemical Research & Licensing Company; Catalytic Distil	97–2211	05/29/97
The LTV Corporation, United Dominion Industries Limited, United Dominion Industries Limited	97–2215	05/29/97
USA Waste Services, Inc., Jorge J. Fernandez-Pabon and Ivelisse Estrada Rivero, Resources Management, Inc. d/b/a Proteco	97–2064	05/30/97
AlliedSignal Inc., Vestar Equity Partners, L.P., Prestone Holdings, Inc	97–2154	05/30/97
GTE Corporation, BBN Corporation, BBN Corporation	97–2183	05/31/97
Universal Outdoor Holdings, Inc., Reilly Family Limited Partnership, Penn Advertising of Baltimore, Inc	97–1306	06/02/97
Typco International Ltd., AT&T Corp., AT&T Submarine Systems, Inc.; Transoceanic Cable Ship	97–2097	06/02/97
Mr. & Mrs. J.D. Lawrence (Husband and Wife), Mrs. Claire L. Arnold, Air Drilling International, Inc.; Air Drilling Services	97–2102	06/02/97
Franklin Mutual Series Fund Inc., Alfred I duPont Testamentary Trust, Florida East Coast Industries, Inc	97–2120	06/02/97
Metal Management, Inc., The Isaac Corporation, The Isaac Corporation	97–2133	06/02/97
Metal Management, Inc., Ferrex Trading Corporation, Ferrex Trading Corporation	97–2134	06/02/97
Ripplewood Partners, L.P., Herb J. Newton, Lenox Dodge, Inc	97–2163	06/02/97
Darrell J. Valenti, Wendy's International, Inc., Wendy's Old Fashioned Hamburgers of New York, Inc	97–2176	06/02/97
Booth Creek Partners Limited III, L.L.P., Booth Creek Partners Limited III, L.L.P., Newco	97–2181	06/02/97
Booth Creek Partners Limited III, LLP, International Trading Company I, International Trading Company, Ltd	97–2182	06/02/97
Leggett & Platt, Incorporated, Billy Ray Moose, Iredell Fiber, Inc	97–2198	06/02/97
Time Warner Inc., Tele-Communications Inc., Southern Satellite Systems, Inc	97–2200	06/02/97
Total Renal Care Holdings, Inc., Hospital Espanol Auxillo Mutuo de Puerto Rico, Hospital Espanol Auxillo Mutuo de Puerto Rico	97–2205	06/02/97
Westinghouse Electric Corporation, Gaylord Entertainment Company, Gaylord Entertainment Company	97–2206	06/02/97
Temple-Inland Inc., The Chase Manhattan Corporation, Knutson Mortgage Corporation	97–2214	06/02/97
Preussag AG, Smith Pipe & Steel Company, Smith Pipe & Steel Company	97–2219	06/02/97
J.W. Childs Equity Partners, L.P., M. Francois Pinault (a French person) Empire Kosher Poultry, Inc	97–2220	06/02/97
Capricorn Investors, L.P., Weatherford Enterra, Inc., Total Engineering Services Team, Inc	97–2221	06/02/97
Patterson Energy, Inc., Myrle Greathouse, Wes-Tex Drilling Company	97–2228	06/02/97
Hicks, Muse, Tate & Furst Equity Fund III, L.P., Anderson H. Walters Trust, WJAC, Incorporated	97–2229	06/02/97
US Airways Group, Inc., Galileo International Inc., Galileo International, Inc	97–2231	06/02/97
Swissair Swiss Air Transport Company Ltd., Galileo International, Inc., Galileo International, Inc	97–2232	06/02/97
Galileo International, Inc., UAL Corporation, Apollo Travel Services Partnership	97–2233	06/02/97
British Airways Plc, Galileo International, Inc., Galileo International, Inc	97–2234	06/02/97
Koninklijke Luchtvaart Maatschappij N.V. (A Dutch Co.), Galileo International, Inc., Galileo International, Inc	97–2235	06/02/97
UAL Corporation, Galileo International, Inc., Galileo International, Inc	97–2236	06/02/97
USA Waste Services, Inc., Allied Waste Industries, Inc., Laidlaw Waste Systems, Inc.; Laidlaw Waste Systems (Chi	97–2237	06/02/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 052697 AND 060697—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Aetna, Inc., FNI International, Inc., FNI International, Inc	97–2240	06/02/97
First National of Nebraska, Inc., Old Kent Financial Corp., Old Kent Bank	97–2241	06/02/97
Penn Ventilator Co., Inc., O.Y.L. Industries, BHD, AAF-McQuay, Inc. (BarryBlower Division)	97–2242	06/02/97
Leslie B. Otten, Michael A. Baker, Wolf Mountain Resorts, L.C	97–2243	06/02/97
St. Joseph Light & Power Company, Percy Kent Bag Co., Inc., Percy Kent Bag Co., Inc	97–2245	06/02/97
Cambridge Shopping Centres Limited, Kenneth R. Thomson, Markborough Properties, Inc	97–2246	06/02/97
Aeroquip-Vickers, Inc., Aeroquip-Vickers, Inc., Aeroquip Corporation/Assets	97–2256	06/02/97
360 Communications Company, 360 Communications Company, 360 Communications Company of Tallahassee Limited	97–2263	06/02/97
The Kaufmann Fund, Inc., Healthcare Recoveries, Inc., Healthcare Recoveries, Inc	97–2264	06/02/97
McCown DeLeeuw & Co. III, L.P., Healthcare America, Inc., Healthcare America, Inc	97–2265	06/02/97
OHM Corporation, Bennie Smith, Jr., Beneco Enterprises, Inc	97–2266	06/02/97
FS Equity Partners III, L.P., Stephen C. Swid, a natural person, SCS Communications, Inc., a Delaware corporation	97–2281	06/02/97
Sierra Pacific Holding Company, Louisiana-Pacific Corporation, Louisiana-Pacific Timber Company	97–2282	06/02/97
Co-Steel Inc., Myer N. Franklin, Jackson Iron & Metal Company, Inc	97–2294	06/02/97
Robert F. X. Sillerman, P. David Lucas, Murat Centre, L.P.; Polaris Amphitheater Limited	97–2298	06/02/97
Baker Hughes Incorporated, DRLX Partners, L.P., Drilex International Inc	97–2138	06/04/97
USA Waste Services, Inc., Alfred Rattenni, A–1 Compaction, Inc	97–2196	06/04/97
International Business Machines Corporation, International Business Machines Corporation, Advantis	97–2204	06/04/97
Gray Communications Systems, Raycom Media, Inc., WITN–TV	97–2212	06/04/97
Lancaster Health Alliance, Brandywine Health Services, Inc., Brandywine Health Services, Inc	97–2225	06/04/97
Jeffrey H. Smulyan, Tribune Company (The), Tribune New York Radio, Inc	97–2252	06/04/97
Occidental Petroleum Corporation, General Electric Company, General Electric Capital Corporation	97–2270	06/04/97
Foundation Health Systems, Inc., Physicians Health Services, Inc., Physicians Health Services, Inc	97–2274	06/04/97
Owens Corning, Fibreboard Corporation, Fibreboard Corporation	97–2290	06/04/97
Abbott Laboratories, Elf Aquitaine, Sanofi Pharmaceuticals, Inc	97–2068	06/05/97
General Electric Company, AT&T Corporation, AT&T Tridom, Inc	97–2069	06/05/97
Cross-Continent Auto Retailers, Inc., Jack Biegger, Sahara Nissan, Inc	97–2084	06/05/97
Rental Service Corporation, John Cooney, Central States Equipment, Inc	97–2247	06/05/97
LaserSight Incorporated, International Business Machines Corporation, International Business Machines Corporation	97–2275	06/05/97
BTG, Inc., John A. Pla, Nations, Inc	97–2279	06/05/97
Jeffrey M. Wolfe, Roy Smith, H.P. Smith Motors, Inc	97–2287	06/05/97
Ascend Communications, Inc., Cascade Communications Corp., Cascade Communications Corp	97–1819	06/06/97
Gururaj Deshpende, a U.S. citizen, Ascend Communications, Inc., Ascend Communications, Inc	97–1820	06/06/97
AmeriKing, Inc., Thomas Fickling, F & P Enterprises, Inc	97–2276	06/06/97
Federal Data Corporation, Gary S. and Areather T. Murray, Sylvest Management Systems Corporation	97–2285	06/06/97
REMEC, Inc., Tao Chow, C&S Hybrid, Inc	97–2291	06/06/97
AmeriKing Inc., William L. Prentice, F&P Enterprises, Inc	97–2296	06/06/97
Institute of the Sisters of Mercy of the Americas, Alexian Brothers of America, Inc., NEWCO	97–2306	06/06/97
National Australia Bank Limited, NationsBank Corporation, The Boatmen's National Bank of St. Louis	97–2319	06/06/97
Samuel Toscano, Jr., Drug Guild Distributors, Inc., Drug Guild Distributors, Inc	97–2321	06/06/97
Laird Norton Companies, Michael R. Wigley, Great Plains Supply, Inc.; GPS Mandan Partners, LLP	97–2324	06/06/97
Mr. Horst Kikwa-Lemmerz (a German person), Hayes Wheels International, Inc., Hayes Wheels International, Inc	97–2328	06/06/97
Suiza Foods Corporation, ZS Dairy Fresh L.P., Dairy Fresh L.P	97–2329	06/06/97
U.S. Office Products Company, Fortune Brands, Inc. f/k/a American Brands, Inc., Sax Arts & Crafts, Inc	97–2353	06/06/97

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–16607 Filed 6–24–97; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[Docket No. 9282]

Automatic Data Processing, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft amended complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 25, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: William J. Baer, Federal Trade Commission, H–374, 6th and Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–2932.

Howard Morse, Federal Trade Commission, S–3627, 6th and

Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–2949.

Eric D. Rohlck, Federal Trade Commission, S–3627, 6th and Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–2681.

SUPPLEMENTARY INFORMATION: Purusant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 3.25 of the Commission's Rules of Practice (16 CFR 3.25), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for June 18, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis to Aid Public Comment on the Provisionally Accepted Consent Order

The Federal Trade Commission (''Commission'') has accepted, for public comment, from Automatic Data Processing, Inc. (''ADP''), an Agreement Containing Consent Order (''Agreement''). The Agreement has been placed on the public record for sixty days for receipt of comments from interested persons.

Comments received during this period will become part of the public record. After sixty days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's order (''Order'').

The Commission issued an administrative complaint on November 13, 1996, charging ADP with violations of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, and Section 7 of the Clayton Act, 15 U.S.C. 18, for its April 1, 1995, acquisition of assets from AutoInfo, Inc. (''Acquisition''). The Complaint alleged that prior to the Acquisition, AutoInfo and ADP were vigorous, head-to-head competitors (Complaint at ¶ 36) and the principal or only competitors in five product markets: (1) Automotive used parts and assemblies interchange; (2) computerized automotive salvage yard management systems that use an interchange; (3) electronic communication systems using an interchange used to buy and sell used automotive parts and assemblies; (4) the integrated network consisting of an interchange, yard management systems and communication systems; and (5) the collection and provision of salvage yard inventory data to customers that provide such data as part of estimating products sold to insurance companies (Complaint at ¶¶ 16–30). The Complaint charged that the effect of the Acquisition may be substantially to lessen competition or tend to create a monopoly in the relevant markets, that through the acquisition agreement, ADP engaged in unfair methods of competition, that ADP attempted to monopolize the relevant product markets, and that ADP monopolized the relevant product markets (Complaint at ¶¶ 42–49).

According to the Complaint, entry into the relevant product markets would not be timely, likely or sufficient in magnitude, character and scope to deter or counteract anticompetitive effects of the Acquisition. The interchange is based on a database that took many years to develop and would be difficult and time-consuming to attempt to reproduce (Complaint at ¶ 39). The interchange is a key input to the yard management systems and electronic communication systems, and without entry into the interchange market, it is also unlikely that timely or sufficient entry will occur (Complaint at ¶ 39). Entry would also be difficult, time-consuming and unlikely in yard management systems, electronic communication systems, and salvage yard information services because of the large number of customers ADP currently has using these products and services. According to the Complaint, salvage yards are reluctant to rely upon a new entrant without a significant number of other salvage yard customers participating in the network (Complaint at ¶ 40). the Compliant also alleged that timely or sufficient entry is unlikely in the collection and dissemination of salvage yard inventory data largely because of the time, expense, and difficulty in collecting salvage yard inventory data independent of ADP and because ADP is the gatekeeper of salvage yard inventory data through its control of the interchange, integrated yard management systems, electronic communication systems, and salvage yard information systems (Complaint at ¶ 39).

The Complaint alleged that the Acquisition was part of a two-step plan by ADP to acquire the leading information service providers to the salvage industry and thereby acquire market power. ADP acquired such market power by first acquiring Hollander, Inc., in 1992, a provider of salvage yard information services with the largest customer base, and then acquiring the AutoInfo assets in 1995, a provider with the second largest customer base (Complaint at ¶ 33).

The Complaint alleged that the Acquisition would, among other things, eliminate AutoInfo as an actual, substantial, and direct competitor, increase or potentially increase prices or reduce technological improvements or innovations in the relevant product markets, increase barriers to entry, harm users of the former-AutoInfo products, and give ADP market and monopoly power in the relevant product markets (Complaint at ¶ 33).

Since November 1996, this matter has been in pretrial discovery before an administrative law judge, with trial scheduled to begin on July 15, 1997. The matter was removed from administrative adjudication on May 22, 1997, on a joint motion of ADP and Commission counsel, so the Commission could consider the Agreement. The Agreement Containing Consent Order would, if finally accepted by the Commission, settle the charge alleged in the Complaint.

Paragraph II of the Order accepted for public comment would require ADP to divest, to an acquire or acquirers and in a manner that receives the prior approval of the Commission, the following assets, collectively known as the ''AutoInfo Assets'':

(1) The former-AutoInfo yard management systems, including, among other things, Checkmate, Checkmate Jr., Classic, the BidPad, PartPad, accounting and management modules, source codes, application program interfaces, data formats, communications protocols, and customer, supplier and service contracts;

(2) The former-AutoInfo communication systems, including ORION/RTS, AutoMatch, AutoXchange, and ORION Exchange communication systems, including, among other things, source codes, application program interfaces, data formats, communication protocols, customer, supplier and service contracts, and ADP's rights and obligations with respect to current and former subscribers to CalQwik;

(3) A non-exclusive, paid-up license to all research and development done by or for

ADP Claims Solutions Group, Inc.'s Parts Services Division for any new yard management system or communication system;

(4) The AutoInfo Interchange, including the assets used in the development and maintenance of the AutoInfo Interchange; and

(5) The former-AutoInfo Parts Locator, a computerized on-line telephone service that is offered to the automobile casualty insurance industry, which uses ORION/RTS, and, among other things, software that provides access to the ORION/RTS database, and customer, supplier and service contracts.

Paragraph II of the Order also requires that ADP divest its rights and obligations as the data collector for the Automotive Recyclers Association (''ARA'') International Database. The proposed Order provides that, in the alternative to a divestiture of the data collector rights, ADP can terminate its rights as the ARA Database Collector pursuant to the contract with the ARA.

ADP would be required to divest the AutoInfo Assets absolutely and in good faith, as an on-going business, to an acquirer within 150 days from the date the Commission accepted the Agreement Containing Consent Order for public comment or 60 days after the Order becomes final, whichever is later, or be subject to civil penalties and the possibility of a trustee being appointed pursuant to Paragraph III of the Order. The trustee would have the right to divest not only the AutoInfo Assets, but also the Compass network of voice lines (''Trustee Assets''). If the trustee is unable to divest the Trustee Assets consistent with the Commission's purpose, the trustee may divest additional ancillary assets of ADP related to the Trustee Assets and effect such other arrangements as are necessary to satisfy the requirements of the Order.

Paragraph II.A. of the proposed Order states that the purpose of the divestiture is to maintain the divested assets as on-going businesses, to continue use of the former-AutoInfo businesses in the same manner as before ADP acquired AutoInfo when ADP and AutoInfo were competitors, and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

Since the Acquisition, ADP, has not updated the former-AutoInfo Interchange and has switched the former-AutoInfo yard management system customers (Checkmate, Checkmate, Jr. and Classic users) from the AutoInfo Interchange to the Hollander Interchange with some integration of the AutoInfo Interchange. Because the merger has led to a migration to a single interchange, the proposed Order would require ADP to grant a paid-up, perpetual, non-exclusive license to the Hollander Interchange with updates from ADP for at least a three-year period. The Hollander Interchange is an important component for trading salvage parts and the proposed Order would allow for the identical Hollander Interchange to be used by the acquirer and its customers and licensees for a period of time.

The acquirer would be free to create its own updates to the Hollander Interchange. This would allow the acquirer to differentiate and improve the Hollander Interchange during the time it is receiving updates from ADP and thereafter. Paragraph IV.B. would assist the acquirer in writing updates by requiring ADP to provide to the acquirer at the time of divestiture, a copy of, and non-exclusive license to, all computer programs and databases, and a list of and sources for all information, used by ADP to update the Hollander Interchange.

Under Paragraph IV.A. of the proposed Order, the acquirer of the divested assets would have the right to sublicense the Hollander Interchange and reproduce it in any form including electronic or printed forms (other than the copyright-protected format of Hollander Interchange books presently produced and sold by ADP). These rights granted the acquirer pursuant to the Order should allow for a competitive environment to emerge through development of the acquirer's or its licensee's products and broaden the choices available to salvage yard customers for parts trading.

Several provisions of the proposed Order are intended to ensure that the acquirer would be a viable and competitive entity at the time of divestiture. The Commission's Complaint alleges that ADP stopped selling the former-AutoInfo yard management systems after the Acquisition and that ADP had a virtual monopoly in the provision of yard management systems to the salvage industry (Complaint at ¶ 24 and 32–38). New yard management system customers were denied the choice of acquiring the AutoInfo yard management system from the date of the Acquisition up to the time of the divestiture under the proposed Order. Paragraph V of the proposed Order would facilitate those customers' switching to the acquirer's products by requiring ADP, for a year, to allow, without penalty, any customer who entered into a contract for the Hollander Yard Management System or ADP's EDEN communication system between April 1, 1995 (the date of the AutoInfo acquisition) and the date of divestiture, to switch from ADP systems to a yard management system or communication system of the acquirer.

Paragraph VII of the proposed Order would prohibit ADP, for ten years, from restricting, or threatening to restrict any customer or licensee of the Hollander Interchange from using or connecting to the products of the acquirer, its licensees or the ARA Data Collector. To facilitate interconnection, the proposed Order would also require ADP to provide to the acquirer and its licensees specifications and information reasonably necessary to create interfaces with ADP's yard management and communication systems. The acquirer and its licensees will be able to transmit inventory data using the Hollander Interchange numbers even after the three-year time period prescribed in Paragraph IV expires because ADP is required to grant a paid-up, perpetual, non-exclusive license to the Hollander Interchange to the acquirer and its licensees in connection with the collection or searching of inventory data. This provision would allow customers to choose to access or connect to other companies' products, thereby increasing their options for buying and selling used parts and assemblies.

Paragraph VII of the proposed Order would not require ADP to give acquirer and its licensees rights to sell or distribute updates of the Hollander Interchange other than the rights specified in Paragraphs II and IV, would not bar ADP from restricting transmission of Hollander Interchange numbers to persons other than the acquirer or its licensees, and would not require ADP to create the interfaces to connect to its products or to repair any customer's Hollander yard management system or EDEN communication system if the product's functionality is damaged by use of the acquirer's or licensees' products.

Paragraph VI of the proposed Order would require ADP to cooperate with the acquirer in hiring persons knowledgeable about interchange, yard management systems, and communication systems from ADP; ADP would be prohibited from restricting or threatening to restrict any person employed by ADP's Parts Services division or formerly by AutoInfo, Inc. at any time since January 1, 1995, from working for the acquirer; and, ADP would be required to cooperate in effecting transfer of any employee who chooses to transfer to the acquirer. For a year after the date the acquirer hires an ADP employee, ADP is also prohibited from re-hiring that person.

The requirements of this Paragraph would assist the acquirer to obtain technical expertise to serve its customers.

Paragraph VIII of the proposed Order would require ADP to obtain prior approval from the Commission for any reacquisition of the assets required to be divested. Certain acquisitions that would not require a premerger filing under the Hart-Scott-Rodino Premerger Notification Act would be subject to a prior notice requirement.

The proposed Order also would require ADP to provide periodic reports of compliance (Paragraph IX), to notify the Commission of changes in its corporate structure or status (Paragraph X), and to permit authorized representatives of the Commission access to, among other things, documents and memoranda relating to matters contained in the Order (Paragraph XI). The proposed Order would terminate twenty years from the date the Order is final.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 97–16608 Filed 6–24–97; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 690–6207.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects 1. Study of the Implementation of the Office of Minority Health's Bilingual/Bicultural Service Demonstration Program

New—The Office of Minority Health proposes to survey sites participating in its Bilingual/Bicultural demonstration grant program to obtain general information on how the program is being implemented.

Type of Respondents: demonstration sites; *Number of Respondents:* 47; *Burden Estimate per Response to Verification Survey:* 4 hours; *Total Burden for Verification Survey:* 188 hours; *Burden Estimate per Response to Telephone Interview:* 1 hour; *Total Burden for Telephone Interview:* 47 hours. *Total Study Burden:* 235 hours.

Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue S.W., Washington, DC, 20201. Written comments should be received within 60 days of this notice.

Dated: June 18, 1997.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 97–16643 Filed 6–24–97; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Program Support Center; Agency Information Collection, Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Program Support Center, publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB:

1. Public Health Service (PHS) Commissioned Corps Application Forms (PHS–50 and PHS–1813)—Revision. The forms have been revised to reflect a reduction in the number and type of questions, as well as a reorganization of the questions to permit a more logical entry of data by both the applicant and the processing personnel office.

The PHS–50, Application for Appointment as a Commissioned Officer in the United States Public Health Service, is used to determine if an applicant is qualified for appointment in the Commissioned Corps of the Public Health Service. In addition, the information contained in PHS–50 establishes the basis for future assignments and benefits as a commissioned officer. *Respondents:* individual applicants seeking appointment as an officer in the Commissioned Corps of the PHS; *Total Number of Respondents:* 1,750 in calendar year 1996; *Frequency of Response:* once per applicant; *Average Burden per Response:* 1.0 hours; Estimated *Annual Burden:* 1,750 hours.

The PHS 1813, Reference Request for Applicants to the U.S. Public Health Service Commissioned Corps, is used to obtain reference information concerning applicants for appointment in the Commissioned Corps of the PHS. Each applicant is required to provide four references. *Respondents:* persons designated by applicant; *Total Number of Respondents:* 7,000; *Frequency of Response:* once per reference source; *Average Burden per Response:* .25 hour; *Estimated Annual Burden:* 1,750 hours. *Total Burden:* 3,500 hours to respondents *OMB Desk Officer:* Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the PSC Reports Clearance Officer on (301) 443–2045. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street N.W., Washington, D.C. 20503.

Comments may also be sent to Douglas F. Mortl, PSC Reports Clearance Officer, Room 17A08, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 30 days of this notice.

Dated: June 18, 1997.

Lynnda M. Regan,

Director, Program Support Center.

[FR Doc. 97–16560 Filed 6–24–97; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HHS Committee on Health Data Standards: Meeting

Notice is hereby given that the U.S. Department of Health and Human

Services will hold a public meeting of its Committee on Health Data Standards and HHS Health Data Standards Implementation Teams.

Time and Date: 9:00 a.m.–5:00 p.m., July 9, 1997.

Place: Natcher Center Auditorium, Natcher Building and Conference Center, National Institutes of Health, Bethesda, Maryland.

The Natcher Center is located on the NIH campus on Center Drive off Wisconsin Avenue. The closest Metro stop is Medical Center (on the Red Line). Attendees are urged to use Metro because visitor parking at NIH is extremely limited. A map of the NIH campus is available on the World Wide Web at: http://www.nih.gov/welcome/images/nihmap.gif

Status: Open.

Purpose: The purpose of the meeting is for representatives of the U.S. Department of Health and Human Services to meet with interested and affected parties and members of the general public to describe the current status of activities relating to the adoption of health data standards pursuant to the administrative simplication provisions of Public Law 104–191, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HHS representatives will describe the HIPAA requirements for health data standards and will provide an overview of HHS efforts in implementing the law. The role of the National Committee on Vital and Health Statistics also will be described. Representatives of each of the six HHS Implementation Teams will then offer presentations on their progress to date as well as their preliminary findings relating to standards, and will respond to questions from the public.

Tentative Agenda

I. Welcome and Introductions
II. HIPAA Administrative Simplification Provisions: Background and Requirements
III. Role of the NCVHS
IV. Reports from the HHS Implementation Teams (Each report will be followed by questions from attendees.)
- Infrastructure and Crosscutting Issues
- Claims and Encounter Standards
- Unique Health Identifiers
- Enrollment and Eligibility Standards
- Coding and Classification Standards
- Security Standards

V. Conclusions

The order of agenda items is subject to change. For the final agenda, please visit the HHS Data Council's Home Page at: http://aspe.os.dhhs.gov/datacncl/

Contact Person for More Information: Additional information may be obtained from Bill Braithwaite, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D, Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201, telephone (202) 260–0546, or Robert Moore, Health Care Financing Administration, DHHS, 7500 Security Blvd., Baltimore, Maryland 21244, telephone (410) 786–0948.

Dated: June 19, 1997.

James Scanlon,

Director, Division of Data Policy, OPS, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 97–16678 Filed 6–24–97; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93G–0359]

Stork CFT B.V.; Withdrawal of GRAS Affirmation Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a petition (GRASP 3G0397) proposing that the use of collagen fiber for use as an ingredient in human food be affirmed as generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT: Mary E. LaVecchia, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3072.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 3, 1993 (58 FR 63996), FDA announced that a petition (GRASP 3G0397) had been filed by Teepak, Inc. (now Stork CFT B.V.), c/o 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed that collagen fiber be affirmed as GRAS for use as an ingredient in human food. Stork CFT B.V., (formerly Teepak, Inc.) has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: June 13, 1997.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–16685 Filed 6–24–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87N–0262]

Merck & Co., Inc., et al.; Withdrawal of Approval of 39 New Drug Applications, 13 Abbreviated Antibiotic Applications, and 46 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 39 new drug applications (NDA's), 13 abbreviated antibiotic applications (AADA's), and 46 abbreviated new drug applications (ANDA's). The holders of the applications notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: July 25, 1997.

FOR FURTHER INFORMATION CONTACT: Olivia A. Vieira, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The holders of the applications listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have had a hearing or have, by their request, waived their opportunity for a hearing.

Application No.	Drug	Applicant
NDA 1–205	Propadrine (Phenylephrine hydrochloride) Elixir	Merck & Co., Inc., P.O. Box 4, BLA–20, West Point, PA 19486.
NDA 5–151	Percorten Acetate (desoxy-corticosterone acetate, USP Pellets.	Novartis, 556 Morris Ave., Summit, NJ 07901–1395.
NDA 5–587	Phisoderm Cream	Sterling Drug, Inc., 90 Park Ave., New York, NY 10016.
NDA 5–786	Ceepryn Concentrate Solution	Merrell Dow Research Institute, 2110 E. Galbraith Rd., Cincinnati, OH 45215–6300.

Application No.	Drug	Applicant
NDA 7–085	Cyanocobalamin Injection USP, 1000 micrograms per milliliter (mL).	Warner Chilcott, Inc., Rockaway 80 Corp. Center, 100 Enterprise Dr., suite 280, Rockaway, NJ 07866.
NDA 8–072	Peritrate (pentaerythritol tetranitrate) Tablets, 10, 20, and 40 milligrams (mg).	Parke-Davis, 2800 Plymouth Rd., Ann Arbor, MI 48105.
NDA 8–279	Nalline Injection	Merck & Co., Inc.
NDA 8–319	Butazolidin Tablets and Capsules (phenylbutazone tablets and capsules).	Ciba Geigy Corp., 556 Morris Ave., Summit, NY 07901–1398.
NDA 9–099	Bonine (meclizine HCl)Chewable Tablets	Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755.
NDA 9–637	Hydrocortisone AC Injection(hydrocortisone acetate injection).	Akorn, Inc., P.O. Box 1220, Decatur, IL 62525.
NDA 10–585	LERITINE Tablets	Merck & Co., Inc.
NDA 11–109	Peritrate SA Tablets, 80 mg	Parke-Davis.
NDA 11–983	Decadron Topical Cream	Merck & Co., Inc.
NDA 12–108	Vaga Spray	Menlo Park Laboratories, Inc., 459 Amboy Ave., P.O. Box 648, Woodbridge, NJ 07095.
NDA 12–311	Pentritol (pentaerythritol tetranitrate) Timed Release Tempules 60 mg.	Rhône-Poulenc Rorer Pharmaceuticals Inc., 500 Arcola Rd., P.O. Box 1200, Collegeville, PA 19426–0107.
NDA 12–487	Taractan (chlorprothixene Ampuls)	Hoffmann-La Roche, Inc., 340 Kingsland St., Nutley, NJ 07110–1199.
NDA 16–219	Lemon Spree Deodorant Soap	Colgate-Palmolive Co., 909 River Rd., P.O. Box 1343, Piscataway, NJ 08855–1343.
NDA 16–264	Palmolive Gold Antibacterial Deodorant Soap	Do.
NDA 16–278	Tackle Medicated Soap	Do.
NDA 16–457	Pentritol (pentaerythritol tetranitrate) Timed Release Tempules 30 mg.	Rhône-Poulenc Rorer Pharmaceuticals Inc.
NDA 16–486	P–300 Antibacterial Deodorant Soap	Colgate-Palmolive Co.
NDA 16–818	Emete-con (benzquinmide HCl) Suppositories	Pfizer, Inc.
NDA 17–818	HALOG (halcinonide) Cream, 0.025%	Westwood-Squibb Pharmaceuticals Inc., 100 Forest Ave., Buffalo, NY 114213–1091.
NDA 17–914	OTIC-TRIDESILON (desonide-acetic acid) Solution, 0.05%	Bayer Corp., 400 Morgan Lane, West Haven, CT 06516–4175
NDA 18–040	Monistat (miconazole) i.v.	Janssen, 1125 Trenton-Harbourton Rd., P.O. Box 200, Titusville, NJ 08560–0200.
NDA 18–793	Cold Capsule IV (phenyl-propanolamine hydro-chloride 75 mg and chlorpheniramine maleate 12 mg extended-release capsules).	D. M. Graham Laboratories, Inc., 58 Pearl St., Hobart, NY 13788.
NDA 18–794	Cold Capsule V (phenylpropanolamine hydrochloride 75 mg and chlorpheniramine maleate 8 mg extended-release capsules).	Do.
NDA 18–843	Pseudoephrine hydrochloride 120 mg and chlorpheniramine maeleate 12 mg extended-release capsules.	Do.
NDA 18–844	Pseudoephredrine hydrochloride 120 mg and chlorpheniramine mealeate 8 mg extended-release capsules.	Do.
NDA 50–165	Polysporin Ointment	Burroughs Wellcome Co., 3030 Cornwallis Rd., P.O. Box 12700, Research Triangle Park, NC 27709–2700.
NDA 50–166	Polysporin Topical Powder	Do.
NDA 50–170	Neosporin Ointment	Do.
NDA 50–313	Fungizone Ointment	Apothecon, P.O. Box 4500, Princeton, NJ 08543–4500.
NDA 50–323	NEODECADRON Topical Cream	Merck &. Co., Inc.
NDA 50–325	NEODECASPRAY Topical Aerosol	Do.
NDA 50–459	Amoxil (amoxicillin trihydrate) capsules	SmitheKline Beecham, One Franklin Plaza, P.O. Box 7929, Philadelphia, PA 19101.
NDA 50–460	Amoxicillin trihydrate for oral suspension	Do.
NDA 50–601	Ceradon (Cefotiam HCl for Injection)	Takeda Chemical Industries Ltd. c/o Corning Besselaar, Inc., 210 Carnegie Center, Princeton, NJ 08540–6233.
NDA 50–678	DYNABAC (dirithromycin tablets)	Lilly Research Laboratories, Lilly Corporate Center, Indianapolis, IN 46285.
AADA 60–095	Tetracycline Suspension 100 mg/mL and Tetracycline Suspension 125 mg/5 mL.	Pfizer, Inc.
AADA 60–199	Chloramphenicol Palmitate USP (nonsterile bulk)	Chong Kun Dang Corp., 14 Magnet St., Stony Brook, NY 11790.
AADA 60–200	Chloramphenicol USP, non-sterile bulk	Do.
AADA 60–285	Tetracycline Hydrochloride Intramuscular Injection, 100 mg and 250 mg vials (both with Procaine Hydrochloride 2%).	Pfizer, Inc.
AADA 60–436	Chloraphenicol Sodium Succinate USP, (Sterile bulk)	Chong Kun Dang Corp.
AADA 61–606	Pyocidin-Otic (Polymyxin B Sulfate and Hydrocortisone Otic Solution USP); 10,000 units and 5 mg/mL).	Forest Laboratories, Inc., 909 Third Ave., New York, NY 10022–4731.
AADA 62–077	Ampicillin Anhydrous (bulk)	Sandoz Pharmaceutical, Agent for Roferm S.p.A., 59 Route 10, East Hanover, NJ 07936–1080.

Application No.	Drug	Applicant
AADA 62–174	Erythromycin Ethylsuccinate, USP (nonsterile bulk)	Pharmacia & Upjohn, 7000 Portage Rd., Kalamzoo, MI 49001–0199.
AADA 62–301	Chloramphenacol Palmitate Suspension USP, 150 mg/5 mL.	Parke-Davis.
AADA 62–647	Amoxicillin Trihydrate (bulk)	Sandoz Pharmaceuticals, Agent for Roferm S.p.A.
AADA 62–794	Clindamycin Phosphate USP, nonsterile bulk	Biochimica Opos S.p.A., c/o Kleinfeld, Kaplan, and Becker, 1140 Nineteenth St. NW., suite 900,Washington, DC 20036.
AADA 63–130	Minocycline Hydrochloride (bulk, nonsterile)	Do.
AADA 64–072	Cefaclor USP, (bulk, nonsterile)	Do.
ANDA 70–516	Propranolol Hydrochloride Tablets USP, 10 mg	Roxane Laboratories, Inc., P.O. Box 16532, Columbus, OH 43216–6532.
ANDA 70–517	Propranolol Hydrochloride Tablets USP, 20 mg	Do.
ANDA 70–518	Propranolol Hydrochloride Tablets USP, 40 mg	Do.
ANDA 70–519	Propranolol Hydrochloride Tablets USP, 60 mg	Do.
ANDA 70–521	Propranolol Hydrochloride Tablets USP, 90 mg	Do.
ANDA 71–555	Nitropress (Sterile Sodium Nitroprusside, USP) 50 mg vial	Abbott Laboratories, D–389 Bldg., AP30, 200 Abbott Park Rd., Abbott Park, IL 60064–3537.
ANDA 80–368	Isoniazid Tablets USP, 50 mg and 100 mg	Vintage Pharmaceuticals, Inc., 3241 Woodpark Blvd., Charlotte, NC 28206.
ANDA 80–778	Hydroxcobalamin Injection (Alpha Redisol)	Merck & Co., Inc.
ANDA 83–089	Propoxyphene Hydrochloride Capsules USP, 65 mg	Roxane Laboratories, Inc.
ANDA 84–772	Promethazine Hydrochloride Syrup USP, 25 mg/5 mL	Alpharma, U.S. Pharmaceuticals Division, 333 Cassell Dr., suite 3500, Baltimore, MD 21224.
ANDA 85–169	Theophylline Elixir, 80 mg/15 mL	Halsey Drug Col, Inc., 1827 Pacific St., Brooklyn, NY 11233–3599.
ANDA 85–263	Theophylline Capsules, 100 mg and 200 mg	KV Pharmaceutical Co., 2503 South Hanely Rd., St. Louis, MO 63144–2555.
ANDA 85–364	Acetaminophen and Codeine Phosphate Tablets, USP (300 mg/15 mg).	Do.
ANDA 85–365	Acetaminophen and Codeine Phosphate Tablet, USP (300 mg/60 mg).	Do.
ANDA 85–523	Meclinzine Hydrochloride Tablets USP, 25 mg	Do.
ANDA 85–524	Meclizine Hydrochloride Tablets USP, 12.5 mg	Do.
ANDA 85–525	Phendimetrazine Tartrate Tablets USP, 35 mg	Do.
ANDA 85–555	Cyclopentolate Hydrochloride Opthalmic Solution USP, 1%	Akorn Manufacturing, Inc.
ANDA 85–658	Methocarbamol Tablets, USP (705 mg)	KV Pharmaceutical Co.
ANDA 85–659	Diphenoxylate Hydrochloride and Atropine Sulfate Tablets USP, 2.5 mg/0.25 mg.	Do.
ANDA 85–660	Methocarbamol Tablets, USP (500 mg)	Do.
ANDA 86–264	Ergoloid Mesylates Sublingual Tablets (1.0 mg)	Do.
ANDA 86–265	Ergoloid Mesylates Sublingual Tablets (0.5 mg)	Do.
ANDA 86–737	Cyproheptadine Hydrochloride Tablets USP, 4 mg	KV Pharmaceutical Co.
ANDA 86–760	Phyllocontin (Aminophylline Controlled-release Tablets), 225 mg.	The Perdue Frederick Co., 100 Connecticut Ave., Norwalk, CT 06850–3590.
ANDA 87–164	Chlorpheniramine Maleate Tablets USP, 4 mg	Do.
ANDA 87–193	Theophylline Extended-release Capsules, 250 mg	D. M. Graham Laboratories, Inc.
ANDA 87–194	Theophylline Extended-release Capsules, 100 mg	Do.
ANDA 87–195	Diphenoxylate Hydrochloride with Atropine Sulfate Tablets, 2.5 mg/0.025 mg.	ICN Pharmaceuticals, Inc., ICN Plaza, 3300 Hyland Ave, Costa Mesa, CA 92626.
ANDA 87–243	Aminophyllin Injection, USP	G. D. Searle and Co., 4901 Searle Pkwy., Skokie, IL 60077.
ANDA 87–464	Oxycodone and Aspirin Tablets, 4.5 mg/235 mg	Halsey Drug Co., Inc.
ANDA 87–763	Theophylline Extended-release Capsules, 50 mg	D.M. Graham Laboratories, Inc.
ANDA 88–020	Trimcaps (Phendimetrazine Tartrate Extended-release Capsules, 105 mg).	Do.
ANDA 88–028	Dital (Phendimetrazine Tartrate Extended-release Capsules, 105 mg).	Do.
ANDA 88–063	Dyrexan-OD (Phendimetrazine Tartrate Extended-release Capsules, 105 mg).	Do.
ANDA 88–111	Rexigen Forte (Phendimetrazine Tartrate Extended-release Capsules, 105 mg).	Do.
ANDA 88–377	Propantheline Bromide Tablets, 15 mg	Par Pharmaceutical, Inc., One Ram Ridge Rd., Spring Valley, NY 10977.
ANDA 88–382	Theophylline Extended-release Capsules, 200 mg	D. M. Graham Laboratories, Inc.
ANDA 88–383	Theophylline Extended-release Capsules, 300 mg	Do.
ANDA 88–577	Hydrocodone Bitartrate and Acetaminophen Tablets USP, 5 mg/500 mg.	Barr Laboratories, Inc., Two Quaker Rd., P.O. Box 2900, Pomona, NY 10970–0519.
ANDA 88–689	Theophylline Extended release Capsules USP, 250 mg	Central Pharmaceutical, Inc., 120 East Third St., Seymour, IN 47274–0328
ANDA 88–743	Endolor (Butalbital, Acetaminophen, and Caffeine Capsules USP, 50 mg/325 mg/40 mg.	D. M. Graham Laboratories, Inc.

Application No.	Drug	Applicant
ANDA 88–765	Two-Dyne (Butalbital, Acetaminophen, and Caffeine Capsules USP, 50 mg/325 mg/40 mg.	Do.
ANDA 89–067	Margesic (Butalbital, Acetaminophen, and Caffeine Capsules USP, 50 mg/325 mg/40 mg.	Do.
ANDA 89–605	Prochlorperazine Edisylate Injection USP, 5 mg/mL	Steris Laboratories, Inc., 620 North 51st Ave., Pheonix, AZ 85040–4705.
ANDA 89–994	Oxycodone Hydrochloride and Acetaminophen Capulses, 5 mg/500 mg.	Halsey Drug Co., Inc.

NDA's 8–072, 11–983, 12–311, and 16–457 were the subject of a hearing (Docket No. 87N–0262 (52 FR 32170, August 26, 1987)). The initial decision of the Administrative Law Judge (ALJ) was that the drug products covered by the NDA's lacked substantial evidence of effectiveness. The holder of NDA's 12–311 and 16–457 was stricken as a party participant in the hearing for failure to file a notice of participation, and the holder of NDA's 8–072 and 11–983 has formally withdrawn its appeal of the initial decision of the ALJ. This notice, therefore, constitutes final agency action on Docket No. 87N–0262 insofar as these four NDA's.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) approval of the applications listed in the table in this document, and all amendments and supplements thereto, is hereby withdrawn, effective July 25, 1997.

Dated: June 17, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–16609 Filed 6–24–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–54 and HCFA–250]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Ambulatory Surgical Center Conditions of Coverage and Supporting Regulations in 42 CFR 416.43 and 416.47; *Document No.:* HCFA–R–54; *Use:* Regulation standards are designed to ensure that each Ambulatory Surgical Center has a properly trained staff and adequate physical environment to provide an appropriate type and level of care. *Frequency:* Annually; *Affected Public:* Business or other for-profit; *Number of Respondents:* 2,341; *Total Annual Hours:* 23,410.

2. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Medicare Secondary Payer Initial Enrollment Questionnaire; *Form No.:* HCFA 250; *Use:* This request will be mailed to all newly enrolled Medicare Beneficiaries approximately 1 to 3 months prior to his/her entitlement date. The information requested will determine if Medicare is the proper primary payer, or if the beneficiary is covered under an employer group health plan through continuation of employment after age 65, or through coverage of a currently employed spouse. This centralizes and standardizes the collection of information under one contract. *Frequency:* Other—Monthly for New Beneficiaries Only; *Affected Public:* Individual or Households; *Number of Respondents:* 2,600,000; *Total Annual Hours:* 650,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Analysis and Planning Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 16, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources.

[FR Doc. 97–16602 Filed 6–24–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[416]

Submitted for Collection of Public Comment: Submission for OMB Review

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of

the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Request: Extension of a currently approved collection; *Title of Information Collection:* Medicaid, EPSDT, Maternal and Child Health; *Form No.:* HCFA–416; *Use:* States are required to submit annual EPSDT program reports to HCFA pursuant to Section 1902(a) (43) of the Social Security Act. These reports provide HCFA with data necessary to assess the effectiveness of State EPSDT programs, to develop trend patterns and projections nationally, and respond to inquiries. Respondents are State Medicaid agencies; *Frequency:* Annually; *Affected Public:* State, local, or tribal government; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Hours:* 1,568.

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: June 16, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 97–16597 Filed 6–24–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources And Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: The National Health Service Corps (NHSC) Loan Repayment Program (LRP) Application and Regulations, and NHSC State Loan Repayment Program Regulations (OMB No. 0915–0127)—

Revision and Extension—The NHSC LRP was established to assure an adequate supply of trained primary care health professionals to the neediest communities in the Health Professional Shortage Areas (HPSAs) of the United States. Under this program, the Department of Health and Human Services agrees to repay the educational loans of the primary care health professionals. In return, the health professionals agree to serve for a specified period of time in a federally-designated HPSA approved by the Secretary for LRP participants. The State Loan Repayment Program (SLRP) is a similar program administered by the States, with matching funds provided by the Federal Government.

This request for extension of OMB approval will include the NHSC LRP application and loan verification form, as well as two minor regulatory requirements, one for the NHSC LRP and the other for the SLRP (described in footnotes to the burden table).

In an effort to improve the procedure for recruiting NHSC LRP applicants and to alleviate some of the burden and delay in the application process, three minor changes are being proposed:

(1) Instead of submitting a copy of the signed employment contract with the application, the applicant will submit a ''Site Information Form,'' which requires information from the applicant about the proposed employment site, and requires only a signature and date from the Site Administrator/Executive Officer. This change will allow HRSA to begin consideration of the application at an earlier stage, since a signed employment contract generally takes more time to negotiate.

(2) A new one-page form, ''The Request for Method of Advanced Loan Repayment'' form, will be included with the application. It provides a description of three methods of payment (quarterly, annually and biennially), and asks applicants to select the method they prefer.

(3) Applicants now obtain a self-report from the National Practitioner Data Bank (NPDB) which they submit with the application form. To obtain that report, the applicant must submit a written request to the NPDB. To expedite that process, HRSA proposes to send the NPDB request form with the LRP application.

Estimates of Annualized Hour Burden: The changes to the application process are not expected to have a significant impact on applicant burden. Burden estimates are as follows:

Form/regulatory requirement	Number of respondents	Responses per respondent	Hours per response	Total burden hours
NHSC LRP Application	800	1	1.5	1,200
Loan Verification Form	*400	1	.25	100
Regulatory Requirements**	1	1	1	1
Total	1,201	1	1.08	1,301

*The remainder of the loans are verified through credit reports.

**42 CFR 62.26(b)(2) requires that LRP participants who continue graduate training after acceptance into the program must submit documentation annually of their training status. This provision has not been used for some time because all recent participants have completed graduate training prior to entry into the program.

42 CFR 62.54 requires States to submit annual applications to participate in the SLRP. The application burden is included in a separate clearance package because the program uses a standard grant application form.

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: June 19, 1997.

James J. Corrigan,

Acting Associate Administrator for Management and Program Support.

[FR Doc. 97–16561 Filed 6–24–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of Receipt of Applications.

SUMMARY: The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. PRT–821577

Applicant: Duane Shroufe, Phoenix, Arizona.

Applicant requests authorization to conduct presence/absence surveys for cactus ferruginous pygmy-owls (*Glaucidium brasilianum cactorum*) in Arizona.

Permit No. PRT–819531

Applicant: Russell B. Duncan, Phoenix, Arizona.

Applicant requests authorization to conduct presence/absence surveys for cactus ferruginous pygmy-owls (*Glaucidium brasilianum cactorum*) in Arizona.

Permit No. PRT–828823

Applicant: Dr. Bryon K. Clarke, Durant, Oklahoma.

Applicant requests authorization to survey for, capture, and release unharmed at capture sites Ozark big-eared bats (*Plecotus townsendii ingens*), Indiana gray bats (*Myotis sodalis*), and gray bats (*Myotis grisescens*) occurring in Adair, Atoka, Bryan, Cherokee, Choctaw, Delaware, Johnston, Latimer, LeFlore, Marshall, McCurtain, Ottawa, Pushmataha, and Sequoyah Counties, Oklahoma.

Permit No. PRT–828830

Applicant: Jeffrey R. Simms, Tucson, Arizona.

Applicant requests authorization to survey, take, handle, measure, weigh, photograph, and immediately release unharmed at capture sites lesser long-nosed bats (*Leptonycteris curasoae yerbabuena*), Gila topminnows (*Poeciliopsis occidentalis*), desert pupfish (*Cyprinodon macularius*), woundfin (*Plagopterus argentissimus*), Virgin River chub (*Gila robusta seminuda*), and razorback suckers (*Xyrauchen texanus*).

Permit No. PRT–828916

Applicant: Becky Yeager, Logan, Utah.

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) between the mouth of the Virgin River Gorge near Littlefield, Arizona, to the Arizona side of Lake Mead.

Permit No. PRT–829362

Applicant: Dr. Bruce Thompson, Las Cruces, New Mexico.

Applicant requests authorization to conduct a nest watch program for bald eagles (*Haliaeetus leucocephalus*) and to survey for southwestern willow flycatchers (*Empidonax traillii extimus*) in New Mexico.

Permit No. PRT–829114

Applicant: Dr. Joyce Maschinski, Flagstaff, Arizona.

Applicant requests authorization to collect the following seedheads from Arizona cliffrose (*Purshia subintegra*) in the Verde Valley, Arizona; seedheads from San Francisco Peaks groundsel (*Senecio franciscanus*) from the San Francisco Peaks, Arizona; cuttings from the Todsen's pennyroyal (*Hedeoma todsenii*) in the Sacramento Mountains, New Mexico; fruits from the Holy Ghost ipomopsis (*Ipomopsis sanctispiritus*) from Holy Ghost Canyon, New Mexico; and fruits from Sacramento prickly-poppy (*Argemone pleiacantha ssp. pinnathisects*) in each of the 7 drainages on the west side of the Sacramento Mountains, New Mexico.

Permit No. PRT–829118

Applicant: Deborah M. Finch, Albuquerque, New Mexico.

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) at the Rio Grande Nature Center in Albuquerque, and at the Bosque del Apache National Wildlife Refuge in Socorro, New Mexico.

Permit No. PRT–829191

Applicant: Jerry D. Fife, Laveen, Arizona.

Applicant requests authorization to obtain radiated (*Geochelone radiata*) and Galapagos (*Geochelone elephantopus*) tortoises and breed them in Arizona.

Permit No. PRT–829243

Applicant: Amy M. Kear, Los Lunas, New Mexico.

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) within New Mexico.

Permit No. PRT–829281

Applicant: Charles J. Burt, Albuquerque, New Mexico.

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*), aplomado falcons (*Falco femoralis septentrionalis*), Mexican spotted owls (*Strix occidentals lucida*), peregrine falcons (*Falco pereginus anatum*), and cactus ferruginous pygmy-owls (*Glaucidium brasilianum cactorum*) in Arizona, New Mexico, and Texas.

Permit No. PRT–829960

Applicant: Jonathan Thompson, Kingsville, Texas.

Applicant requests authorization to survey for, band, and radio-mark piping plovers (*Charadrius melodus*) along the southern Gulf Coast of Texas.

Permit No. PRT–828963

Applicant: Dr. Stuart Henry Woods, Warner, Oklahoma.

Applicant requests authorization to conduct presence/absence surveys for the American burying beetle (*Nicrophorus americanus*) in Muskogee County, Oklahoma.

Permit No. PRT–829761

Applicant: Linda Rundell, Las Cruces, New Mexico.

Applicant requests authorization to conduct presence/absence surveys for aplomado falcons (*Falco femoralis septentrionalis*), peregrine falcons (*Falco peregrinus*), southwestern willow flycatchers (*Empidonax traillii extimus*), and Mexican spotted owls (*Strix*

occidentals lucida) in Las Cruces District Lands of the Bureau of Land Management in New Mexico.

Permit No. PRT–829855

Applicant: Timothy G. Baumann, Evergreen, Colorado.

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) in New Mexico and Arizona.

Permit No. PRT–829996

Applicant: Richard A. Bayer, Houston, Texas.

Applicant requests authorization to acquire and maintain a hawksbill sea turtle (*Eretomochelys imbricata*) and 2 Kemp's ridley sea turtles (*Lepidochelys kempii*) at the Houston Zoological Gardens.

Permit No. PRT–830177

Applicant: Anthony F. Amos, Port Aransas, Texas.

Applicant requests authorization to rescue and/or receive, transport, and maintain for rehabilitation purposes at the Marine Science Institute, sick and injured specimens of the following protected species: green sea turtle (*Chelonia mydas*), Kemp's ridley sea turtle (*Lepidochelys kempii*), loggerhead sea turtle (*Caretta caretta*), hawksbill sea turtle (*Eretmochelys imbricata*), and the leatherback sea turtle (*Dermochelys coriacea*). Rehabilitated sea turtles will be released back into the wild at location of capture. Applicant also requests authorization to salvage and necropsy dead specimens.

Permit No. PRT–829943

Applicant: John Axtell, Minden, Nevada.

Applicant requests authorization to obtain and breed masked bobwhite quail (*Colinus virginianus ridgwayi*) for scientific research and recovery purposes.

Permit No. PRT–829995

Applicant: Richard W. Buickerood, Dallas, Texas.

Applicant requests authorization to obtain 100 fountain darters (*Etheostoma fonticola*) for educational display purposes from the San Marcos National Fish Hatchery and Technology Center in San Marcos, Texas for the Dallas Zoo and Dallas Aquarium.

DATES: Written comments on these permit applications must be received by July 25, 1997.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Lynn B. Starnes,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 97–16606 Filed 6–24–97; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–015–97–1150–00; GP7–0079]

Emergency Closure of Public Lands to Vehicle Travel

SUMMARY: Notice is hereby given that effective immediately all public lands in Lake County, Oregon, as legally described below are closed to vehicle travel:

T.28 S., R.16 E., W.M., Oregon,
Sec. 6: Lot 3 (S&W of County Road 5–14B), Lot 4 (S&W of road), Lot 5 (north ½), and N½SE¼NW¼ (S&W of road).

The purpose of this closure (approximately 56 acres) is to protect a Bureau designated special status plant species. The authority for this closure is 43 CFR 8341.2 and 8342. This closure will remain in effect until a new ORV designation plan is completed for the Lakeview Resource Area through the land use planning process.

FOR FURTHER INFORMATION CONTACT: Lucile Housley, Lakeview Resource Area, BLM, PO Box 151, Lakeview, OR 97630 (ph: 541–947–2177).

Dated: June 10, 1997.

Scott R. Florence,

Manager, Lakeview Resource Area.

[FR Doc. 97–16601 Filed 6–24–97; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–922–07–1330–00–24–1A–P; MTM31751]

Realty Actions; Sales, Leases; Montana

AGENCY: Bureau of Land Management.

ACTION: Deletion From the Marysville Known Geothermal Resource Area.

SUMMARY: Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), the delegations of authority in the 235 Departmental Manual 1.1K, Bureau of Land Management, the following lands are deleted from the Marysville Known Geothermal Resource Area:

Principal Meridian, Montana

T. 11 N., R. 6 W,
Secs. 2, 7, 11, 14–18, 20, 21
T. 12 N., R. 6 W.,
Secs. 19–22, 27, 34, 35

The above area aggregates 10,880 acres, more or less.

EFFECTIVE DATE: April 11, 1997.

Thomas P. Lonnie,

Deputy State Director, Division of Resources.

[FR Doc. 97–16594 Filed 6–24–97; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

Lake Mead National Recreation Area; Operation of a Marina at Willow Beach

SUMMARY: The National Park Service is issuing a second solicitation seeking offers to operate a marina at Willow Beach Site within Lake Mead National Recreation Area. This will be a 125 slip marina with modest food and store operations along with related services. There is no existing operator. This opportunity is fully competitive. The existing facility is government-owned. An initial capital investment will be required for the rehabilitation of marina facilities. The term of the contract has been extended from five to ten years. In addition, rather than having to write-off the investment in the new marina docking system during the contract term, the concessioner will be allowed a possessory interest in that facility (a right to be compensated at the end of the ten years) at either the appraised value, based on its replacement cost less wear-and-tear and obsolescence or on the investment made (whichever is less). The closing day for acceptance of offers is September 30, 1997.

SUPPLEMENTARY INFORMATION: The cost for purchasing a Prospectus is $30.00. Parties interested in obtaining a copy should send a check, NO CASH, payable to ''National Park Service'' to the following address: National Park Service, Office of Concession Program Management, Pacific Great Basin Support Office, 600 Harrison St., Suite 600, San Francisco, California 94107–1372. The front of the envelope should be marked ''Attention: Office of Concession Program Management—Mail Room Do Not Open''. Please include a mailing address indicating where to send the prospectus. Address inquiries to Ms. Teresa Jackson, Secretary, Office of Concession Program Management at (415) 427–1369.

Dated: June 6, 1997.

John J. Reynolds,

Regional Director, Pacific West Area.

[FR Doc. 97–16603 Filed 6–24–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Presidio of San Francisco

AGENCY: National Park Service/Presidio Trust.

ACTION: Notice of meeting.

SUMMARY: This notice announces the upcoming meeting of the Presidio Trust Board of Directors.

MEETING DATE, TIME, AND ADDRESS: Wednesday, July 9, 1997; 9:00 a.m. to 11:00 a.m.; Golden Gate Club, Fisher Loop, Presidio of San Francisco, San Francisco, California.

The Board will undertake steps to organize itself and may consider other business. The public is invited to attend. A detailed agenda for the meeting will be available by July 2, 1997. Contact the General Manager of the Presidio at the address listed below.

FOR FURTHER INFORMATION CONTACT:

General Manager BJ Griffin, Presidio of San Francisco, P.O. Box 29022, San Francisco, California 94129 (415–561–4401).

SUPPLEMENTARY INFORMATION: The Presidio Trust was established by Public Law 104–333, dated November 12, 1996.

B.J. Griffin,

General Manager, Presidio Project.

[FR Doc. 97–16604 Filed 6–24–97; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–753–756 (Final)]

Certain Carbon Steel Plate From China, Russia, South Africa, and Ukraine

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping Investigations Nos. 731–TA–753–756 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China, Russia, South Africa, and Ukraine of certain carbon steel plate,[1] provided for in provisions of headings 7208 though 7212 of the Harmonized Tariff Schedule of the United States (HTS).[2]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: June 10, 1997.

[1] For the purposes of these investigations, certain carbon steel plate is hot-rolled iron and nonalloy steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1,250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief), of rectangular shape, neither clad, plated, nor coated with metal, and whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and nonalloy steel flat-rolled products not in coils, of rectangular shape, hot-rolled, neither clad, plated, nor coated with metal, and whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included in this definition are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been bevelled or rounded at the edges. Excluded from this definition are plates that are characterized as grade X-70 plates.

[2] Certain carbon steel plate is currently covered by the following statistical reporting numbers of the HTS: 7208.40.3030; 7208.40.3060; 7208.51.0030; 7208.51.0045; 7208.51.0060; 7208.52.0000; 7208.53.0000; 7208.90.0000; 7210.70.3000; 7210.90.9000; 7211.13.0000; 7211.14.0030; 7211.14.0045; 7211.90.0000; 7212.40.1000; 7212.40.5000; and 7212.50.0000.

FOR FURTHER INFORMATION CONTACT: Douglas Corkran or Vera Libeau (202–205–3177 or 202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain carbon steel plate from China, Russia, South Africa, and Ukraine are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on November 5, 1996, by Geneva Steel Co., Provo, UT, and Gulf States Steel, Inc., Gadsden, AL.

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided

that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on August 15, 1997, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on August 28, 1997, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before August 20, 1997. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on August 25, 1997, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is August 22, 1997. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is September 5, 1997; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before September 5, 1997. On September 24, 1997, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before September 26, 1997, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: June 20, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–16675 Filed 6–24–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–396]

Certain Removable Electronic Cards and Electronic Card Reader Devices and Products Containing the Same; Notice of Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, Kent R. Stevens, Esq. of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation instead of William F. Heinze, Esq.

Dated: June 18, 1997.

Lynn I. Levine,

Director, Office of Unfair Import Investigations.

[FR Doc. 97–16676 Filed 6–24–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

U.S. v. Seminole Fertilizer Corporation; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)–(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the Middle District of Florida in *United States of America* v. *Seminole Fertilizer Corporation*, Civil No. 97–1507–CIV–T–17E.

The Complaint in the case alleges that Seminole restrained trade by entering into a secret bidding agreement with its chief rival for the purchase of an ammonia storage facility located in Tampa, Florida. The Complaint alleges that the agreement had the effect of eliminating Seminole as a viable competing bidder.

In the proposed Final Judgment, Seminole agrees not to enter into agreements with others illegally setting the price of fertilizer assets. Seminole also agrees not to submit joint bids for fertilizer assets without first notifying the seller of the asset and the person administering the sale of the asset that the bid has been jointly prepared.

Public Comments on the proposed Final Judgment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to John T. Orr, Chief, Atlanta Field Office, Antitrust Division, Department of Justice, Suite 1176, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303 (telephone: 404–331–7100).

Rebecca P. Dick,

Deputy Director of Operations, Antitrust Division.

Stipulation

Judge Elizabeth A. Kovachevich

It is stipulated by and between the undersigned parties that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties thereto, and venue of this action is proper in the Middle District of Florida, Tampa Division;

2. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendant and by filing that notice with the Court;

3. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to any party in this or in any other proceeding; and

4. This Stipulation and the Final Judgment to which it relates are for settlement purposes only and do not constitute an admission by Defendant in this or any other proceeding; that Section 1 of the Sherman Act, 15 U.S.C. 1, or any other provision of law, has been violated.

This 18th day of June, 1997.

Gary R. Trombley,

Attorney for Defendant, Trombley & Associates, P.A., P.O. Box 3356, Tampa, Florida 33601, (813) 229–7918.

Karen E. Sampson,

Belinda A. Barnett,

Attorneys for Plaintiff, U.S. Department of Justice, Antitrust Division, 75 Spring Street, S.W., Suite 1176, Atlanta, Georgia 30303, (404) 331–7100.

Final Judgment

Judge Elizabeth A. Kovachevich

Whereas plaintiff, United States of America, having filed its Complaint in this action on June 18, 1997, and plaintiff and defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law; and without this Final Judgment constituting any evidence against, or any admission by, any party with respect to any such issue of fact or law.

And whereas defendant has agreed to be bound by the provisions of this Final Judgment pending its approval by the Court.

Now, therefore, before any testimony is taken, and without trial or adjudication of any issue of fact or law, and upon the consent of the parties,

It is hereby ordered, adjudged and decreed as follows:

I

Jurisdiction

This Court has jurisdiction over the subject matter of this action, and over the person of the defendant, Seminole Fertilizer Corporation. The Complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Sherman Act (15 U.S.C. 1).

II

Definitions

As used in this Final Judgment:

A. ''Defendant'' means Seminole Fertilizer Corporation and its affiliates, parents, subsidiaries, successors and assigns, directors, officers, managers, agents, and employees engaged in the fertilizer business, and any other person acting for or on behalf of them with respect to the fertilizer business.

B. ''Fertilizer asset'' means any asset used principally in the manufacture, processing, production, storage, distribution, or sale of fertilizer or ammonia.

C. ''Fertilizer business'' means the manufacturing, processing, production, storage, distribution, or sale of fertilizer or ammonia.

D. ''Jointly determined bid'' or ''joint bid'' means any combining, pooling, or supplementing of resources, money, or property in connection with an actual or proposed offer for property which is to be sold through a bid process.

E. ''Person'' means any individual, association, cooperative, partnership, corporation, or other business or legal entity.

III

Applicability

This Final Judgment shall apply to defendant, including each of its directors, officers, managers, agents, employees, affiliates, parents, subsidiaries, and successors and assigns engaged now or in the future in the fertilizer business, and to all other persons in active concert or participation with defendant in the fertilizer business who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Prohibited Conduct

Defendant is enjoined and restrained from:

A. Directly, indirectly, or through any joint venture, partnership, or other device, entering into, attempting to enter into, organizing or attempting to organize, implementing or attempting to implement, or soliciting any agreement, understanding, contract, or combination, either express or implied, with any other person:

1. To submit any jointly determined bids for the acquisition of any fertilizer asset located in the United States; or

2. To illegally set or establish the price or other terms and conditions of any bids for the acquisition of any fertilizer asset located in the United States;

B. Directly, indirectly, or through any joint venture, partnership, or other device, communicating or inquiring about any intentions, decisions, or plans to refrain from bidding or to bid, including any intentions, decisions, or plans regarding any actual or proposed bid amounts, for the acquisition of any fertilizer asset located in the United States, where such communication or inquiry is to:

1. Any other person that is known or reasonably should be known by defendant to be a potential bidder on the sale of that fertilizer asset; or

2. Any other person that has announced an intention to bid on the sale of that fertilizer asset; and

C. Directly, indirectly, or through any joint venture, partnership, or other device, requesting, suggesting, urging, or advocating that any other person not bid on, or suggesting that it would not be profitable, desirable, or appropriate for any other person to bid on, the sale of any fertilizer asset located in the United States.

V

Limiting Conditions

A. Nothing in Section IV (A) and (B) shall prohibit defendant from entering an agreement, understanding, contract, or combination with any other person to submit any jointly determined bids for the acquisition of any fertilizer asset located in the United States so long as the purpose or effect is not to eliminate or suppress competition and where before or at the time of submitting any such jointly determined bids, defendant:

1. Discloses to the seller of the asset and the person administering the sale of the asset that a jointly determined bid is being submitted, the nature of the joint bid arrangement, and with whom the joint bid is being submitted; and

2. Does not, without disclosing to the seller in advance of the sale, violate any of the terms or conditions for bidding imposed by the seller of the asset or violate any of the terms or conditions for bidding imposed by the person administering the sale of the asset.

B. Section IV (B) and (C) shall not apply to communications to

shareholders, potential purchasers of substantially all of the defendant's stock or assets, lenders, creditors, or subcontractors, who are not competitors, where such communications are limited to the context of such relationship.

VI

Notification

Defendant currently is not engaged in the fertilizer business. If defendant re-enters and engages in the fertilizer business at any time during the term of this Final Judgment, then within thirty (30) days of such re-entry, defendant shall cause to be delivered, by certified letter or its equivalent, a copy of this Final Judgment to all persons with whom defendant then is engaged in a partnership, joint venture, or other similar relation in the fertilizer business, and to all persons with whom defendant then is engaged in discussions or negotiations regarding the possible submission of a joint bid for the acquisition of any fertilizer asset.

VII

Compliance

A. In view of the fact that defendant is not currently engaged in the fertilizer business, all of defendant's compliance obligations under Section VII of this Final Judgment are suspended until such time as defendant re-enters and engages in the fertilizer business during the term of this Final Judgment.

B. If and when defendant re-enters the fertilizer business during the term of this Final Judgment, within thirty (30) days of re-entry defendant is ordered to establish and maintain for as long as it engages in the fertilizer business an antitrust compliance program which shall include designating an Antitrust Compliance Officer with responsibility for accomplishing the antitrust compliance program and with the purpose of achieving compliance with this Final Judgment. The Antitrust Compliance Officer shall, on a continuing basis, supervise the review of the current and proposed activities of the defendant to ensure that it complies with this Final Judgment. The Antitrust Compliance Officer shall be responsible for accomplishing the following activities:

1. Distributing, within ninety (90) days of the date of defendant's re-entry in the fertilizer business, a copy of this Final Judgment to all officers and directors, and any person who otherwise manages defendant with respect to the fertilizer business;

2. Distributing in a timely manner a copy of this Final Judgment to any person who succeeds to a position described in Section VII (B)(1);

3. Briefing annually defendant's officers and directors engaged in the fertilizer business on the meaning and requirements of this Final Judgment and the antitrust laws;

4. Obtaining annually from each officer or employee designated in Section VII(B)(1) and (2) a written certification that he or she: (a) Has read, understands, and agrees to abide by the term of this Final Judgment; (b) understands that failure to comply with this Final Judgment may result in conviction for criminal contempt of court; and (c) is not aware of any violation of the Final Judgment that has not been reported to the Antitrust Compliance Officer;

5. Maintaining a record of recipients from whom the certification required by Section VII(B)(4) has been obtained; and

6. Distributing in a timely manner, and in all cases before entering any agreement, understanding, contract, or combination to submit a joint bid and before making the notification to the required parties under Section V, above, a copy of this Final Judgment to any person with whom the defendant enters into discussions or negotiations for the possible submission of a joint bid for the acquisition of any fertilizer asset.

C. Defendant is also ordered to file with this Court and serve upon plaintiff, within ninety (90) days after the date of defendant's re-entry in the fertilizer business, an affidavit as to the fact and manner of its compliance with this Final Judgment.

D. If defendant's Antitrust Compliance Officer learns of any violations of this Final Judgment, defendant shall forthwith take appropriate action to terminate or modify the activity so as to assure compliance with this Final Judgment.

VIII

Plaintiff Access

A. For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, duly authorized representatives of the plaintiff shall, upon written request by the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant, be permitted:

1. Access during the defendant's office hours to inspect and copy all records and documents in its possession or control relating to the fertilizer business specifically described in this Final Judgment; and

2. Subject to the reasonable convenience of defendant and without restraint or interference from defendant, to interview the defendant's officers, employees, or agents engaged in the fertilizer business, who may have counsel present, regarding the defendant's fertilizer business.

B. Upon written request by the Assistant Attorney General in charge of the Antitrust Division, the defendant shall submit such written reports, under oath if requested, relating to the fertilizer business concerning matters contained in this Final Judgment as may be requested, subject to any legally recognized privilege.

C. No information or documents obtained by the means provided in this Section VIII shall be divulged by the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then 20 days' notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

IX

Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling either of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance herewith, and to punish any violations of its provisions. Nothing in this provision shall give standing to any person not a party to this Final Judgment to seek any relief related to it.

X

Term

This Final Judgment will expire on the tenth anniversary of its date of entry.

XI

Public Interest

Entry of this Final Judgment is in the public interest.

Dated: _____

Court approval subject to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16.

United States District Judge

Competitive Impact Statement

Judge Elizabeth A. Kovachevich

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States submits this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry with the consent of Seminole Fertilizer Corporation in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On June 18, 1997 the United States filed a civil antitrust complaint alleging that defendant and others conspired unreasonably to restrain competition in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint alleges that defendant, Norsk Hydro USA Inc. (''Norsk USA''), and Farmland Industries, Inc. (''Farmland'') met on March 5, 1992, and discussed sharing pipeline capacity and the cost of bidding on an ammonia tank and pipeline interest, hereinafter referred to as the Tampa Facility. At the conclusion of the meeting, defendant, Norsk USA, and Farmland reached a tentative agreement, which was later reduced to writing. The Complaint also alleges that on March 9 and March 10, 1992, defendant and Norsk USA discussed the terms of the agreement by telephone on several occasions and that they executed the written agreement two hours before the scheduled auction of the Tampa Facility on March 12, 1992. The agreement provided that defendant would give bid support of up to $2.5 million to Norsk USA, if necessary, to defeat a competing bid. In exchange, Norsk USA agreed to give defendant increased pipeline capacity if Norsk USA was the successful bidder.

This agreement had the effect of eliminating defendant, Norsk USA's chief rival, as a viable competing bidder for the Tampa Facility. Almost immediately after signing the agreement, defendant stated that it was no longer going to attend the auction of the Tampa Facility. At the auction on the afternoon of March 12, there were no bids for the Tampa Facility other than the one previously submitted by Norsk USA.

On ____, the United States and defendant filed a Stipulation by which they consented to the entry of a proposed Final Judgment following compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h). The proposed Final Judgment, as will be discussed in detail in Section IV.A., would order defendant to refrain from soliciting, entering, or attempting to enter any agreement to submit any jointly determined bids for the acquisition of any fertilizer asset (as defined in the Final Judgment) located in the United States with any other person that is known or reasonably should be known to defendant to be a potential bidder on the sale of that fertilizer asset. The Final Judgment would also enjoin defendant from soliciting, entering, or attempting to enter any agreement to set or establish the price or other terms and conditions of any bids for the acquisition of any fertilizer asset located in the United States.

II

Description of Defendant

Defendant, a wholly owned subsidiary of Tosco Corporation, sold all of its assets in May 1993. Before its assets were sold, defendant maintained its corporate offices in Stamford, Connecticut, and was a manufacturer and distributor of phosphatic fertilizer. It operated production and storage facilities in central Florida, near Tampa.

III

The Tampa Facility and Events Leading Up to the Alleged Violation

A. The Tampa Facility

The Tampa Facility, which consists of an ammonia terminal located in the Port of Tampa, Florida, and a one-half interest in a pipeline system connected to the ammonia terminal,[1] is used for storing, handling, and delivering anhydrous ammonia, one of the raw materials used in the manufacture of phosphatic fertilizers. Located on approximately 17½ acres of land leased from the Tampa Port Authority, the Tampa Facility has a single tank with a 35,000 metric ton storage capacity. It services five nearby phosphatic fertilizer plants,[2] where the ammonia is combined with phosphoric acid to create diammonium phosphate. The Tampa Facility is able to service by truck or rail other phosphatic fertilizer plants not connected to it. During the early 1990's the Tampa Facility was owned by the Royster Company (''Royster''), now known as Mulberry Phosphates, Inc. (''MPI'').

B. The Bankruptcy of Royster and the Failed Auction

Royster was a manufacturer of phosphatic fertilizers and related products for the domestic and export markets. Its principal facilities included a plant for the production of diammonium phosphate, located in Mulberry, Florida, and the Tampa Facility. Royster filed for bankruptcy protection on April 8, 1991, after months of experiencing financial hardships. Under the reorganization plan submitted to the Bankruptcy Court, Royster proposed to liquidate certain assets, including its Tampa Facility. Shortly after news of the potential sale of the Tampa Facility went public, Norsk USA and defendant separately expressed interest in acquiring it. After extensive negotiations with Royster officials, Norsk USA agreed to purchase the property for $15.5 million and executed an asset purchase agreement for the property on September 25, 1991. The agreement guaranteed Royster the right to purchase a continuing supply of ammonia from the terminal for its Mulberry plant and contained a through-put provision that permitted it to put the ammonia through the pipeline from the terminal to the plant. In November of that same year, the Bankruptcy Court ordered that the Tampa Facility be sold by auction and that bids be taken against Norsk USA's offer of $15.5 million. The auction was scheduled for March 12, 1992. It was not until the auction was announced that a third Company, CF Industries (''CF''),[3] publicly expressed any interest in acquiring that Tampa Facility.

On December 18, 1991, the Bankruptcy Court issued an order approving bidding procedures in connection with the proposed sale of the Tampa Facility. Any third party offer had to: (1) Be substantially similar to the one contained in the Norsk USA Asset Purchase Agreement; (2) be at least $1 million more than the Norsk USA offer of $15.5 million; (3) include an offer to enter into a through-put agreement with Royster; and (4) include a confidentiality agreement with Royster and Norsk USA regarding disclosure of the terms of the Royster/Norsk USA

[1] Defendant owned the other one-half interest in the pipeline, along with a separate ammonia terminal (consisting of two ammonia tanks) that also was connected to the pipeline.

[2] If defendant had been successful in acquiring the Tampa Facility, it would have been the exclusive supplier to those five plants.

[3] CF is a cooperative which has been a major participant in the fertilizer business since the mid-1960's and has operated world-scale phosphatic fertilizer plants in Florida since 1969.

Through-put Agreement. In addition, the Order required that the third party deposit $1 million in escrow no later than the time at which it submitted an offer. The money deposited was to remain in escrow pending the earlier of (a) the closing of the sale to the third party if its offer was approved by the Bankruptcy Court or (b) the entry of an order approving the sale of the Tampa Facility to either Norsk USA or another third party bidder. After depositing the $1 million, the third party was entitled to receive documents setting forth the results of the inspection of the Tampa Facility's tank, the cost of repair, the terms of the Royster/Norsk USA Through-put Agreement, and the terms of any through-put agreements submitted by any other third parties.

In February 1992, CF deposited $1 million in escrow. Defendant made its escrow deposit on March 9, 1992, three days before the auction. At the time of the auction, there were four bidders who were qualified to bid: Norsk USA, CF, defendant, and Superfos Investments Limited (''Superfos'').[4] CF informed Royster shortly before the auction that it would not be bidding, because of environmental concerns raised by a just-completed study it had done. Only Norsk USA appeared at the auction site on the afternoon of March 12 to bid on the Tampa Facility. There having been no new bids tendered, Norsk USA's standing offer of $15.5 million was accepted, pending approval by the Bankruptcy Court. In a meeting later that afternoon to finalize the details of the sale before a March 13 court hearing, Royster representatives discovered that Norsk USA and defendant had executed a joint bidding agreement approximately two hours before the auction was scheduled to begin.

At the hearing the following day, Royster representatives advised the Bankruptcy Court of the agreement between defendant and Norsk USA. The Bankruptcy Court deferred ratification of the sale and ordered discovery to be taken. A few days later, the Bankruptcy Court received two anonymous communications regarding the bidding agreement. One communication was a letter alleging that defendant had agreed to backstop Norsk USA's bid and that defendant's bid supplement was leaked to CF, causing them to withdraw. The letter pinpointed Steve Yurman, defendant's president, as the villain in the alleged deal. The other communication was one of defendant's internal memoranda written by Yurman describing the terms of the March 12 agreement. After reviewing the information obtained during discovery in light of the anonymous correspondence, the Bankruptcy Court, at a hearing on March 20, refused to ratify the sale of the Tampa Facility to Norsk USA and ordered that a second auction be held. At the second auction, on June 17, 1992, CF and Norsk USA submitted bids, and CF won the Tampa Facility with a final bid of $21.6 million. (By the time of the second auction, CF had been able to resolve its environmental concerns.)

C. Evidence of Collusion

On February 26, 1992, representatives of defendant, Norsk USA, and Farmland met at the Rihga Royal Hotel in New York to discuss an alleged ''joint venture'' proposal by defendant. The proposal involved Norsk USA buying the Tampa Facility and keeping the interest in the pipeline, but possibly selling the tank to CF. The meeting concluded with no agreements being reached.

The same parties met again on March 5, 1992, at the same hotel. They primarily discussed sharing pipeline capacity and the cost of bidding on the terminal. Specifically, Norsk USA, Farmland, and defendant proposed that Norsk USA and defendant enter into an agreement whereby defendant would supplement Norsk USA's bid and consent to Royster's transfer of its pipeline interest to Norsk USA in return for Norsk USA giving defendant extra pipeline capacity.[5] A tentative agreement was reached and Norsk USA indicated that it would have its attorneys reduce the agreement to writing and send defendant a draft to review. Norsk USA sent the first written draft to defendant on March 6, and on March 9 and March 10 representatives of Norsk USA and defendant discussed, via telephone on several occasions, the terms of the draft agreement.

On the morning of March 12, officials of Farmland, Norsk USA, Tosco, and defendant, along with their attorneys, met in Tampa, Florida, at the law offices of MacFarlane Ferguson, Norsk USA's local counsel, to resume negotiating the details of the proposed agreement. After hours of negotiations, the parties agreed, in part, that (a) defendant would supplement Norsk USA's bid up to $2.5 million and consent to Royster's assignment of its one-half interest in the pipeline lease to Norsk USA and (b) Norsk USA, in return, would give defendant the right to use an extra 40,000 tons of the pipeline's capacity. Almost immediately after signing the agreement, defendant stated that it was no longer attending the auction.

One of defendant's representatives appeared at the auction moments before it started and advised Royster that it was withdrawing from the bidding. Later that evening, representatives of Norsk USA and defendant talked by telephone and agreed to instruct their counsel to confer with one another to prepare for the court hearing the next day.

In this case, there was virtually no evidence of covert activity, which indicated that the subjects of the investigation were not aware of, or did not appreciate, the full consequences of their actions. This lack of covertness is one of the main reasons this case is being filed civilly rather than criminally. *See* Antitrust Division Manual, Section III.E., at III–12 (October 18, 1987) (Second Edition).

IV

Explanation of Proposed Final Judgment

A. Prohibited Conduct

Section IV. A. enjoins defendant from directly, indirectly, or through any joint venture, partnership, or other device, entering into, attempting to enter into, organizing or attempting to organize, implementing or attempting to implement, or soliciting any agreement, understanding, contract, or combination, either express or implied, with any other person: (1) To submit any jointly determined bids for the acquisition of any fertilizer asset located in the United States; or (2) to illegally set or establish the price or other terms and conditions of any bids for the acquisition of any fertilizer asset located in the United States.

Paragraph B. of Section IV. also enjoins defendant from directly, indirectly, or through any joint venture, partnership, or other device, communicating or inquiring about any intentions, decisions, or plans to refrain from bidding or to bid, including any intentions, decisions, or plans regarding any actual or proposed bid amounts, for the acquisition of any fertilizer asset located in the United States, where such communication or inquiry is to (1) any other person that is known or reasonably should be known by defendant to be a potential bidder on the sale of that fertilizer asset or (2) any other person that has announced an

[4] Since Superfos was a major creditor of Royster, the Bankruptcy Court exempted Superfos from the $1 million escrow requirement and gave it permission to submit a credit bid. Thus, Superfos could deduct from its bid offer the amount it was owed by Royster.

[5] As owner of the other one-half interest in the Tampa Facility's pipeline lease, defendant already had the right to use 450,000 tons of the pipeline's 900,000 ton capacity.

intention to bid on the sale of that fertilizer asset.

Paragraph C. of Section IV. enjoins the defendant from directly, indirectly, or through any joint venture, partnership, or other device, requesting, suggesting, urging, or advocating that any other person not bid on, or suggesting that it would not be profitable, desirable, or appropriate for any other person to bid on, the sale of any fertilizer asset located in the United States.

B. Compliance Program and Certification

The Final Judgment acknowledges that defendant currently is not engaged in the fertilizer business and, as a result, suspends all of defendant's compliance obligations under Section VII. of the Final Judgment until such time as defendant re-enters and engages in the fertilizer business during the term of the Final Judgment. If and when defendant re-enters the fertilizer business during the term of the Final Judgment, within thirty (30) days of re-entery defendant must establish and maintain for as long as it engages in the fertilizer business an antitrust compliance program which shall include designating an Antitrust Compliance Officer with responsibility for accomplishing the compliance program. The Antitrust Compliance Officer is required to, on a continuing basis, supervise the review of the current and proposed activities of the defendant to ensure that it is in compliance with the program. The Antitrust Compliance Officer is also required to (1) distribute a copy of the Final Judgment to all officers and directors, and any person who otherwise manages defendant with respect to the fertilizer business, (2) distribute in a timely manner copy of the Final Judgment to any person who succeeds to a position described in Section VII.B.1. of the Final Judgment, (3) brief annually defendant's officers and directors engaged in the fertilizer business on the meaning and requirements of the Final Judgment and the antitrust laws, and (4) obtain annually from each officer or employee designated in Section VII.B.1 and 2. of the Final Judgment a written certification that he or she: (a) Has read, understands, and agrees to abide by the terms of the Final Judgment; (b) understands that failure to comply with the Final Judgment may result in conviction for criminal contempt of court; and (c) is not aware of any violation of the Final Judgment that has not been reported to the Antitrust Compliance Officer.

Moreover, defendant is required to distribute in a timely manner a copy of the Final Judgment to any person with whom the defendant enters into discussions or negotiations for the possible submission of a joint bid for the acquisition of any fertilizer asset and file with this Court and serve upon plaintiff, within ninety (90) days after the date of defendant's re-entry in the fertilizer business, an affidavit as to the fact and manner of its compliance with this Final Judgment. Defendant is also required to take appropriate action to terminate or modify any activities it uncovers that violate any provision of the Final Judgment.

V

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may being suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust actions under the Clayton Act. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any private lawsuit that may be brought against the defendant.

VI

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to John T. Orr, Chief, Atlanta Field Office, U.S. Department of Justice, Antitrust Division, 75 Spring Street, S.W., Suite 1176, Atlanta, Georgia, 30303, within the 60-day period provided by the Act. These comments, and the Department's responses, will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry.

VII

Alternative to the Proposed Final Judgment

The Department considered, as an alternative to the proposed Final Judgment, litigation seeking comparable equitable relief. In the view of the Department of Justice, a trial would involve substantial cost to the United States and is not warranted because the Proposed Judgment provides relief that will remedy the violations of the Sherman Act alleged in the Complaint of the United States.

VIII

Determinative Materials and Documents

No materials and documents described in Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), were used in formulating the proposed Final Judgment.

Date: _____

Respectfully submitted,

Karen E. Sampson,

Belinda A. Barnett,

Attorneys for Plaintiff, U.S. Department of Justice, Antitrust Division, 75 Spring Street, S.W., Suite 1176, Atlanta, Georgia 30303, (404) 331–7100.

[FR Doc. 97–16593 Filed 6–24–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Charles Milton Waller, D.D.S. Denial of Application

On February 25, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Charles Milton Waller, D.D.S., of Parkville, Missouri, notifying him of an opportunity to show cause as to why DEA should not deny his application, dated June 6, 1995, for a DEA Certificate of Registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of Missouri. The order also notified Dr. Waller that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received by Dr. Waller on March 4, 1997. No request for a hearing or any other reply was received by the DEA from Dr. Waller or anyone purporting to represent him in this matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Waller is deemed to have waived his hearing right. After considering the relevant material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order

without a hearing pursuant to 21 CFR 1301.43 (d) and (e) and 1301.46.

The Acting Deputy Administrator finds that on September 6, 1996, the Missouri Dental Board issued a Disciplinary Order revoking Dr. Waller's license to practice dentistry. The Acting Deputy Administrator finds that in light of the fact that Dr. Waller is not currently licensed to practice dentistry in the State of Missouri, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state.

The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51, 104(1993).

Here it is clear that Dr. Waller is not currently authorized to handle controlled substances in the State of Missouri, where he has applied for registration with DEA. Therefore, Dr. Waller is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100 (b) and 0.104, hereby orders that the application, submitted by Charles Milton Waller, D.D.S., on June 6, 1995, for a DEA Certificate of Registration, be, and it hereby is, denied. This order is effective July 25, 1997.

Dated: June 16, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–16558 Filed 6–24–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Clark Elkhorn Mining Company

[Docket No. M–97–58–C]

Clark Elkhorn Mining Company, P.O. Box 2805, Pikeville, Kentucky 41502 has filed a petition to modify the application of 30 CFR 75.900 (low- and medium-voltage circuits serving three-phase alternating current equipment; circuit breakers) to its Sunset Mine No. 2 (I.D. No. 15–17849) located in Pike County, Kentucky. The petitioner proposes to use contactors to obtain undervoltage protection instead of using circuits breakers. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

2. B & B Anthracite Coal

[Docket No. M–97–59–C]

B & B Anthracite Coal, 225 Main Street, Joliett, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.360 (preshift examination) to its Rock Ridge Slope (I.D. No. 36–07741) located in Schuylkill County, Pennsylvania.

The petitioner proposes to visually examine each seal for physical damage from the slope gunboat during the preshift examination after an air quantity reading is taken in by the intake portal and to test for the quantity and quality of air at the intake air split locations off the slope in the gangway portion of the working section. The petitioner proposes to physically examine the entire length of the slope once a month. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. B & B Anthracite Coal

[Docket No. M–97–60–C]

B & B Anthracite Coal, 225 Main Street, Joliett, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.364(b) (1), (4), and (5) (weekly examination) to its Rock Ridge Slope (I.D. No. 36–07741) located in Schuylkill County, Pennsylvania. Due to hazardous conditions and roof falls, certain areas of the intake haulage slope and primary escapeway cannot be traveled safely. The petitioner proposes to examine these areas from the gunboat/slope car with an alternative air quality evaluation at the section's intake level, and to travel and thoroughly examine these areas for hazardous conditions once a month. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

4. B & B Anthracite Coal

[Docket No. M–97–61–C]

B & B Anthracite Coal, 225 Main Street, Joliett, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1100 (quantity and location of firefighting equipment) to its Rock Ridge Slope (I.D. No. 36–07741) located in Schuylkill County, Pennsylvania. The petitioner proposes to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage are not practical. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. B & B Anthracite Coal

[Docket No. M–97–62–C]

B & B Anthracite Coal, 225 Main Street, Joliett, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1202–1(a) (temporary notations, revisions, and supplements) to its Rock Ridge Slope (I.D. No. 36–07741) located in Schuylkill County, Pennsylvania. The petitioner proposes to revise and supplement mine maps annually instead of every 6 months, as required, and to update maps daily by hand notations. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

6. Ambrose Branch Coal Company, Inc.

[Docket No. M–97–63–C]

Ambrose Branch Coal Company, Inc., P.O. Box 806, Pound, Virginia 24279 has filed a petition to modify the application of 30 CFR 77.214 (refuse piles; general) to its Preparation Plant (I.D. No. 44–05265) located in Wise County, Virginia. The petitioner requests a modification of the standard to allow backfilling of the existing highwall with refuse in an area containing abandoned mine openings. The petitioner proposes to fill seven (7) drift openings with refuse material at the abandoned Fleetwood Energy, Inc., Mine No. 2 (I.D. No. 44–06470). The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

7. Consolidation Coal Company

[Docket No. M–97–64–C]

Consolidation Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.364(b)(2)

(weekly examination) to its Shoemaker Mine (I.D. No. 46–01436) located in Marshall County, West Virginia. Due to deteriorating roof conditions, certain areas of the return air course cannot be traveled safely. The petitioner proposes to establish evaluation points P and Q that would be maintained in safe condition; and to have a certified person test for methane and the quantity of air at both check points on a weekly basis and place their initials, date, and time in a record book kept on the surface and made available for inspection by interested persons. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

8. Turris Coal Company

[Docket No. M–97–66–C]

Turris Coal Company, P.O. Box 21, Elkhart, Illinois 62634 has filed a petition to modify the application of 30 CFR 75.1100–2(i)(1) (quantity and location of firefighting equipment) to its Elkhart Mine (I.D. No. 11–02664) located in Logan County, Illinois. The petitioner proposes to use the following materials at its Elkhart Mine: 160 Kennedy Metal Stopping Panels with associated head sills and twist clamps; 32 Kennedy Stopping Rib Angles; 3 rolls of tape; 3 twist tools; 2 rolls of brattice cloth; 3 stopping jacks; 3 dutch heads; 3 shovels; 12 buckets of Celtite 10–12 Airtite (or equivalent material for stopping); and 5 tons of rock dust. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

9. Old Ben Coal Company

[Docket No. M–97–67–C]

Old Ben Coal Company, P.O. Box 397, 13101 Ziegler Road, Coulterville, Illinois 62237 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Ziegler No. 11 Mine (I.D. No. 11–02408) located in Randolph County, Illinois. The petitioner proposes, instead of using a padlock, to use a Spring-Loaded Plug Interlock attached to the plug receptacle and permanently attached to the battery case designed so that when the battery-plugs are secured and the spring loaded interlock is released, the threaded ring securing the battery plugs cannot become loose. The petitioner asserts the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

10. Drummond Company, Inc.

[Docket No. M–97–68–C]

Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama 35202–0246 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Shoal Creek Mine (I.D. No. 01–02901) located in Jefferson County, Alabama. The petitioner requests that the final Decision and Order dated April 1, 1995, be amended. The petitioner asserts that the amended alternative method would provide at least the same measure of protection as would the mandatory standard.

11. Kerr-McGee Coal Corporation

[Docket No. M–97–69–C]

Kerr-McGee Coal Corporation, 123 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102 has filed a petition to modify the application of 30 CFR 75.352 (return air courses) to its Galatia Mine (I.D. No. 11–02752) located in Saline County, Illinois. The petitioner requests a modification of the standard to permit two-entry development of the headgate entries for the 5th East Longwall panel. The petitioner proposes to install low-level carbon monoxide sensors as an early warning fire-detection system in the intake escapeway entry and in the belt entry. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

12. Kerr-McGee Coal Corporation

[Docket No. M–97–70–C]

Kerr-McGee Coal Corporation, 123 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Galatia Mine (I.D. No. 11–02752) located in Saline County, Illinois. The petitioner requests a modification of the standards to permit two-entry development and retreat mining in the 5th East Longwall panel. The petitioner proposes to install low-level carbon monoxide sensors as an early warning fire detection system in the intake escapeway entry and in the belt entry. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

13. Tri-State Terminals, Inc.

[Docket No. M–97–71–C]

Tri-State Terminals, Inc., P.O. Box 6100, Huntington, West Virginia 25770 has filed a petition to modify the application of 30 CFR 77.503–1 (electric conductors) to its Lockwood Dock (I.D. No.15–10358) located in Boyd County, Kentucky. The petitioner proposes to install current limiting devices on the electrical conductors provided for the crusher motors listed as C2A–300HP, C2B–300HP, CIA–200HP, and CIB–200HP, and the BC–3 conveyor belt drive electrical installations to ensure deenergization of the circuit before a rise in temperature from normal operation damages the insulating materials of electrical conductors. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

14. Island Creek Coal Company

[Docket No. M–97–72–C]

Island Creek Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.364 (weekly examination) to its Ohio No. 11 Mine (I.D. No. 15–03173) located in Union County, Kentucky. Due to an accumulation of water in the 3rd North Old No. 1 Unit and cut through sealed area of the intake air course, persons traveling the affected area to make weekly examinations would be exposed to hazardous conditions. The petitioner proposes to amend its ventilation plan to remove evaluation points EP–1, EP–2, and EP–3 and establish evaluation points C, D, and E maintained in safe condition at all times; to have a certified person conduct tests for methane and the quantity of air at all check points on a weekly basis and place their initials, date, and time in a record book kept on the surface and made available for inspection by interested parties. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

15. Homestake Mining Company

[Docket No. M–97–04–M]

Homestake Mining Company, 630 E. Summit, Lead, South Dakota 57754 has filed a petition to modify the application of 30 CFR 56.6202(a)(5) (vehicles) to its Lead, S.D. Mine (I.D. No. 39–00055) located in Lawrence County, South Dakota. The petitioner proposes to substitute a flashing amber light in place of signs on rubber-tired mobile equipment used in the ramp systems and to have the light readily visible from all directions. The petitioner states that the flashing amber light would be a natural extension of the amber light currently used at the Homestake Mine to delineate explosive storage facilities. The petitioner asserts

that application of the standard would diminish the safety of the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 25, 1997. Copies of these petitions are available for inspection at that address.

Dated: June 17, 1997.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 97–16665 Filed 6–24–97; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification

The following party has filed a petition to modify the application of a mandatory safety standard under section 101(c) of the Federal Mine Safety and Health Act of 1977.

Monterey Coal Company

[Docket No. M–97–65–C]

Monterey Coal Company, Rural Route 4, Box 235, Carlinville, Illinois 62626 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its No. 1 Mine (I.D. No. 11–00726) located in Macoupin County, Illinois. The petitioner proposes to mine through oil and gas wells with the longwall system after they have been properly plugged. In addition, the petitioner proposes to mine through plugged oil and gas wells with continuous miners when no barrier can be left during development mining at its No. 1 Mine. The petitioner states that using the proposed alternative method would guarantee equal or better protection to the miners.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 25, 1997. A copy of this petition is available for inspection at that address.

Dated: June 16, 1997.

Edward C. Hugler,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 97–16666 Filed 6–24–97; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health: Request for Nomination of Members

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Advisory Committee on Construction Safety and Health (ACCSH): Request for Nomination of Members.

The Acting Assistant Secretary of Labor for Occupational Safety and Health invites and requests the public to nominate individuals by July 31, 1997, for appointment to the Advisory Committee on Construction Safety and Health. ACCSH is authorized under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656). The function of ACCSH is to advise the Assistant Secretary on occupational safety and health standards in the construction industry and policy affecting federally-financed or federally-assisted construction.

ACCSH meets two to four times per year for one or two days per meeting. Some terms will expire on August 15, 1998, and others on August 15, 1999. Any member absent from two consecutive meetings will be replaced for the duration of his or her term.

The five categories of membership and the number of representatives to be appointed in each category are listed below:

- Representatives of employee interests (five).
- Representatives of employer interests (five).
- Representatives of State safety and health agencies (two).
- Representatives qualified by knowledge and experience related to construction safety and health (two). This includes representatives of professional safety and health groups or standards-producing groups.
- Representatives from, and appointed by, the National Institute for Occupational Safety and Health (not appointed by OSHA).

Nominees must have specific experience and be actively engaged in work related to occupational safety and health in the construction industry. Members (other than representatives of employers and employees) must not have an economic interest in any proposed standard. Nominations for a particular category of membership should come from groups or people within that category.

OSHA requires the particular information listed below. Nominations must include (1) nominee's resume or curriculum vitae, (2) all categories of membership for which the nominee can serve, (3) nominee's involvement in federally-funded or federally-assisted construction, (4) a summary of background, experience and qualifications that makes the nominee well-suited for each of those particular categories of membership, (5) the nominee's date of birth, (6) the nominee's Social Security number, (7) the nominee's current address, (8) the nominee's telephone number, (9) the nominee's fax number (if available), and (10) the nominee's e-mail address (if available). In addition, each nomination must state that the nominee is (11) aware of the nomination, (12) willing to serve, (13) able to attend meetings, and (14) free of apparent conflicts of interest that would preclude unbiased service on ACCSH. Nominations of past or existing members must also include (15) the period of previous appointment(s), (16) a list of all ACCSH and workgroup meetings attended and missed, and (17) a summary of significant contributions made in producing written recommendations to OSHA. The nomination should also include a writing sample authored solely by the nominee and a description of the nominee's oral communications skills.

The Department of Labor is committed to equal opportunity in the workplace and seeks a broad-based and diverse ACCSH membership. Send nominations no later than July 31, 1997, to Ms. Teresa M.B. Martinez, Department of Labor, OSHA, 200 Constitution Avenue, N.W., Room S-2315, Washington, D.C. 20210. For further information, contact Ms. Martinez at 202–219–6091.

Signed at Washington D.C. this 19th day of June, 1997.

Greg Watchman,

Acting Assistant Secretary of Labor.

[FR Doc. 97–16670 Filed 6–24–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Studying the Merits of Defined Contribution vs. Defined Benefit Plans; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group established to Study the Merits of Defined Contribution vs. Defined Benefit Plans With an Emphasis on Small Business Concerns will hold a public meeting on July 17, 1997 in Room N–5437 A&B, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, D.C. 20210.

The purpose of the open meeting, which will run from 1:00 p.m. until approximately 3:30 p.m., is for Working Group members to take testimony on the trends in the formation of defined benefit plans from the perspective of organized labor.

Members of the public are encourage to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before July 7, 1997, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group on Studying the Merits of Defined Contribution vs. Defined Contribution Plans With an Emphasis on Small Business Concerns should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by July 7, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before July 7.

Signed at Washington, D.C. this 18th day of June, 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 97–16667 6–24–97; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Employer Assets In ERISA Employer-Sponsored Plans; Advisory Council on employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on July 17, 1997 of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group studying Employer Assets in ERISA Employer-Sponsored Plans.

The purpose of the open meeting, which will run from 9:30 a.m. until noon in Room N–5437 A&B, U.S. Department of Labor Building, Second and Constitution Avenue NW, Washington, D.C. 20210, is for Working Group members to continue taking testimony on the topic of employer assets in ERISA employer-sponsored plans. The group will be especially interested in seeking testimony from organizations or persons not in favor of allowing employer securities as significant plan assets of defined contribution plans. The group also hopes to discuss other assets held by the plan such as real estate leased to the plan sponsor.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before July 7, 1997, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group on Employer Assets in ERISA Employer-Sponsored Plans should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by July 7, 1997, at the address indicated in this notice. Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before July 7.

Signed at Washington, D.C. this 18th day of June, 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 97–16668 Filed 6–24–97; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Soft Dollar Arrangements and Commission Recapture; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held July 16 of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group formed to study Soft Dollar Arrangements and Commission Recapture.

The session will take place in Room N–5437 A&B, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, D.C. 20210. The purpose of the all-day open meeting, which will run from 9:30 a.m. to approximately noon and from 1:00 p.m. until approximately 3:30 p.m., is for Working Group members to take testimony from members of the financial community discussing their views on soft dollar and directed brokerage practices. Most testimony will be favorable to continuing the current practice with disclosure to clients. Already scheduled to appear is Ronald Machold from the New Jersey Investment Board, who will discuss soft dollar usage in a large internally-managed pension system.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before July 7, 1997, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–

5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group on Soft Dollar Arrangements and Commission Recapture should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by July 7, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before July 7.

Signed at Washington, D.C. this 18th day of June, 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 97–16669 Filed 6–24–97; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL SCIENCE FOUNDATION

NSF Survey of Research and Development Funding and Performance by Nonprofit Organizations; Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Proposed collection; comment request.

SUMMARY: The National Science Foundation, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

COMMENT DUE DATE: Written comments must be submitted by August 25, 1997.

ADDRESSES: Submit comments to Gail A. McHenry, NSF Reports Clearance Officer, by fax (702) 306–0210, e-mail at gmchenry@nsf.gov, or by mail to National Science Foundation, 4201 Wilson Boulevard, Suite 245, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Gail A. McHenry, the NSF Reports Clearance Officer on (703) 306–1125 x2010 or send e-mail to gmchenry@nsf.gov. You may also obtain a copy of the data collection instrument and instructions from Mrs. McHenry.

SUPPLEMENTARY INFORMATION:

Abstract

NSF Survey of Research and Development Funding and Performance by Nonprofit Organizations (NPOs) will collect information on the science and engineering (S&E) research and development (R&D) activities of nonprofit organizations for the two most recently completed years. (On an historic note, a prior study with similar objectives was conducted in 1973.) The purposes of the study are to: (1) Develop estimates of the amounts of R&D funding provided by NPOs and the types of organizations supported; (2) develop estimates of the amount of R&D performed by NPOs; and (3) develop estimates of R&D employment in NPOs. Two different survey questionnaires will be used. R&D performers will be asked for R&D expenditures by source of funds, by field of science and engineering, by category of work (Basic, Applied, Development), by state, and amounts expended for capital improvements, and for employment. R&D funders will be asked for amount of S&E R&D they fund at various categories of R&D performers. The information is needed to update available data on the R&D activities of the nonprofit segment. The Gallup Organization will conduct the study for NSF.

Two samples will be drawn: one of NPO R&D performers and a second of NPO R&D funders. The R&D performers' sample will be drawn from organizations filing a 990 tax return. An initial sample of roughly 3,500 potential NPO R&D performers will be selected and sent a short screening questionnaire to establish eligibility for the main study. An unweighted response rate of 90 percent is anticipated, and about 90 percent of the participating organizations are expected to be eligible. These 2,800 organizations will be sent a main questionnaire that is expected to yield a final working sample size of about 2,500. To be included with certainty in the sample of 3,500 are the 450 respondents to the 1973 NSF R&D nonprofit institutions survey and the 15 Federally Funded Research and Development Centers that are administered by NPOs.

The R&D funders sample will be drawn from both 990PF tax returns for private foundations and 990 returns for public charities. As with the performers, a sample of potential NPO R&D funders will be selected to receive a short screening questionnaire to establish eligibility (N=700). Of these, 90 percent are expected to participate and 90 percent of these are expected to be eligible to participate. The roughly 560 eligible organizations will be sent a main questionnaire that is expected to yield a total working sample of 500.

To minimize burden on small entities and to make sure that a high proportion of the nonprofit sector's R&D funding and performance is captured, the sample will be designed with probabilities proportional to size. Thus, a large NPO has a higher probability of being selected than a small NPO has. This method is justified because large NPOs are more likely to perform R&D than small NPOs are. Size will be determined by budgets, assets, or awards.

The main questionnaires will be distributed in hardcopy and via the World Wide Web. To minimize burden, the World Wide Web questionnaires will be computer-assisted to ease user input, provide automatic totals of numerical information and aid users in error correction.

Security procedures will minimize the risk of unwanted disclosure over the Internet. Definitions of key survey terms have been made consistent with OMB Circulars A–122, Cost Principles for Nonprofit Organizations, and A–133, Audits of Institutions of Higher Education and Other Non-Profit Institutions, to minimize potential confusion and unnecessary effort by survey respondents.

Information being collected is not considered to be sensitive. In general, assurances of data confidentiality will not be provided to respondents to the NSF Survey of Research and Development Funding and Performance by Nonprofit Organizations. The utility of the data will be increased by allowing access to collected data. Results of pretesting and discussions with possible respondents have suggested this approach for handling confidentiality.

Use of the Information

The purpose of this study is to collect data about R&D funding and performance by nonprofit organizations. The NSF will publish a separate report of the findings and also include them in other NSF compilations such as National Patterns of R&D Resources and Science and Engineering Indicators. A public release file of collected data will be made available to researchers on the World Wide Web. The results of the survey will help policy makers in decisions on R&D funding, regulations, and reporting guidelines.

Burden on the Public

The Foundation estimates that a total annual reporting and recordkeeping burden of 34,335 houses will result from the collection of information. The calculation is:

3,500 performers × 1 screening questionnaire × 12.5 minutes =	729.2 hours
2,800 performers × 1 survey questionnaire × 11.75 hours =	32,900.0 hours
700 funders × 1 screening questionnaire × 12.5 minutes =	145.8 hours
560 funders × 1 shorter questionnaire × 1 hour =	560.0 hours
Total	34,335.0 hours

Request for Comments

We invite comments specifically on:

(a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(b) the accuracy of the Agency's estimate of the burden of the proposed collection of information;

(c) ways to enhance the quality, utility, and clarify of the information to be collected;

(d) ways to minimize the burden of collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and

(e) the proposal to allow users to access collected data by not providing assurances of data confidentiality. We are interested in having NPOs review the questionnaires and identify any data fields that may be problematic.

Comments submitted in response to this notice will be summarized and/or included in the request of OMB approval of this information collection; they also will become a matter of public record.

Dated: June 20, 1997.

Gail A. McHenry,

Reports Clearance Officer.

[FR Doc. 97–16662 Filed 6–24–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412

The Cleveland Electric Illuminating Company Order, et al.; Approving Application Regarding Merger Agreement Between Centerior Energy Corporation and Ohio Edison Company

I

The Cleveland Electric Illuminating Company (CEI), Duquesne Light Company (DL), Ohio Edison Company (OE), Pennsylvania Power Company (Penn Power), and Toledo Edison Company (TE) are the licensees of Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and BVPS–2). DL acts as agent for the other licensees and has exclusive responsibility for and control over the physical construction, operation, and maintenance of BVPS–1 and BVPS–2 as reflected in Facility Operating License Nos. DPR–66 and NPF–73. The Nuclear Regulatory Commission (NRC) issued License Nos. DPR–66 and NPF–73 on July 2, 1976, and on August 14, 1987, respectively, pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR Part 50). The facility is located on the southern shore of the Ohio River in Beaver County, Pennsylvania, approximately 22 miles northwest of Pittsburgh and 5 miles east of East Liverpool, Ohio.

II

By letter dated December 13, 1996, CEI, OE, Penn Power, and TE, through counsel, informed the Commission of a proposed merger of Centerior Energy Corporation and OEC resulting in the formation of a new single holding company, FirstEnergy Corporation (''FirstEnergy''). DL is not involved in the merger. Supplemental information was submitted by letters dated February 14 and May 20, 1997.

Under the proposed merger, CEI, OE, and TE will become wholly owned subsidiaries of FirstEnergy. Penn Power will remain a wholly owned subsidiary of OE. The current licensees will continue to hold the license, and no direct transfer of the license will result from the merger. On April 16, 1997, a Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring was published in the **Federal Register** (62 FR 18658). An Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on May 23, 1997 (62 FR 28523).

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information submitted in the letter of December 13, 1996, and other information before the Commission, the NRC staff has determined that the proposed merger will not affect the qualifications of CEI, OE, Penn Power, and TE as holders of Facility Operating License Nos. DPR–66 and NPF–73, and that the transfer of control of the licenses, to the extent effected by the merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a safety evaluation dated June 19, 1997.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the Commission approves the application regarding the merger agreement between Centerior Energy Corporation and OE subject to the following: (1) CEI, OE, Penn Power, and TE shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from such licensee to its parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent of such licensee's consolidated net utility plant, as recorded on the licensee's books of account; and (2) should the merger not be completed by June 30, 1998, this Order shall become null and void, unless upon application and for good cause shown this date is extended. This Order is effective upon issuance.

IV

By July 25, 1997, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how such person's interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an order designating the time and place of such hearing.

The issue to be considered at any such hearing shall be whether this Order should be sustained.

Any request for a hearing must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Copies should also be sent to the Office of the General Counsel and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

For further details with respect to this action, see the application dated December 13, 1996, as supplemented February 14 and May 20, 1997, and the safety evaluation dated June 19, 1997, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC., and at the local public document room located at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Dated at Rockville, Maryland, this 19th day of June 1997.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–16613 Filed 6–24–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440]

The Cleveland Electric Illuminating Company, et al.; Order Approving Application Regarding Merger Agreement Between Centerior Energy Corporation and Ohio Edison Company

I

The Cleveland Electric Illuminating Company (CEI), Centerior Service Company (CSC), Duquesne Light Company, Ohio Edison Company (OE), OES Nuclear, Inc., Pennsylvania Power Company (Penn Power), and Toledo Edison Company (TE) are the licensees of Perry Nuclear Power Plant, Unit 1 (PNPP). CEI and CSC act as agents for the other licensees and have exclusive responsibility for, and control over, the physical construction, operation, and maintenance of PNPP as reflected in Operating License No. NPF–58. The U.S. Nuclear Regulatory Commission (NRC) issued License No. NPF–58 on March 18, 1986, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). The facility is located on the shore of Lake Erie in Lake County, Ohio, approximately 35 miles northeast of Cleveland, OH.

II

By letter dated December 13, 1996, CEI and CSC, on behalf of themselves and TE, OE, OES Nuclear, Inc., and Penn Power, informed the Commission of a proposed merger of Centerior Energy Corporation and OE resulting in the formation of a new single holding company, FirstEnergy Corporation. Duquesne Light Company is not involved in the merger. Supplemental information was submitted by letters dated February 14 and May 20, 1997.

Under the proposed merger, CEI, CSC, TE, currently subsidiaries of Centerior Energy Corporation, and OE will become wholly owned subsidiaries of FirstEnergy Corporation. Penn Power and OES Nuclear, Inc., will remain wholly owned subsidiaries of OE. Centerior Energy Corporation will cease to exist. The current licensees will continue to hold the license, and no direct transfer of the license will result from the merger. On April 15, 1997, a notice of consideration of approval of application regarding corporate restructuring was published in the **Federal Register** (62 FR 18369). An Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on May 7, 1997 (62 FR 24981).

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted in the letter of December 13, 1996, and other information before the Commission, the NRC staff has determined that the proposed merger will not affect the qualifications of CEI, CSC, OE, OES Nuclear, Inc., Penn Power, and TE as holders of Facility Operating License No. NPF–58, and that the transfer of control of the license, to the extent effected by the proposed merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a Safety Evaluation dated June 19, 1997.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended; 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It is hereby ordered* that the Commission approves the application regarding the merger agreement between Centerior Energy Corporation and OE, subject to the following: (1) CEI, CSC, OE, OES Nuclear, Inc., Penn Power, and TE shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from such licensee to its parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent of such licensee's consolidated net utility plant, as recorded on the licensee's books of account; and (2) should the merger not be completed by June 30, 1998, this Order shall become null and void unless, upon application and for good cause shown, this date is extended.

This Order is effective upon issuance.

IV

By July 25, 1997, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how such person's interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an order designating the time and place of such hearing.

If a hearing is held concerning this Order, the issue to be considered at any such hearing will be whether this Order should be sustained.

Any request for a hearing must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Copies should also be sent to the Office of the General Counsel and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Gerald Charnoff, Esquire, of Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

For further details with respect to this action, see the application dated

December 13, 1996, as supplemented by letters dated February 14 and May 20, 1997, and the Safety Evaluation dated June 19, 1997, which are available for public inspection at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, OH.

Dated at Rockville, Maryland, this 19th day of June 1997.

For the U.S. Nuclear Regulatory Commission.

Frank J. Miraglia, Jr.,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–16615 Filed 6–24–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–461]

Illinois Power Company (Clinton Power Station, Unit 1); Withdrawal of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has received a request by Illinois Power Company (the licensee) for withdrawal of a proposed amendment to Facility Operating License No. NPF–62, issued to the licensee for operation of the Clinton Power Station, Unit 1, located in DeWitt County, Illinois. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on April 9, 1997 (62 FR 17220). In addition, an Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on April 22, 1997 (62 FR 19633).

The purpose of the licensee's amendment request was to incorporate a requirement to maintain in effect interim administrative controls and contingent operator actions until the licensee completed modifications to upgrade the degraded voltage protection instrumentation and distribution system for all three divisions of safety-related AC power. The amendment also recognized that use of the interim administrative controls constituted an unreviewed safety question (USQ). Subsequently the licensee, by letter dated June 9, 1997, stated that the USQ no longer exists and requested withdrawal of the amendment application. Thus, the amendment is considered withdrawn.

For further details with respect to this action, see (1) the application for amendment dated April 1, 1997, and (2) the request for withdrawal dated June 9, 1997.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 19th day of June 1997.

For the Nuclear Regulatory Commission.

Douglas V. Pickett,

Senior Project Manager, Project Directorate III–3, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–16617 Filed 6–24–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–277 and 50–278]

Peach Bottom Atomic Power Station, Units 2 and 3; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–44 and DPR–56, issued to PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company (the licensee), for operation of the Peach Bottom Atomic Power Station, Units 2 and 3 located in York County, Pennsylvania.

The application requests staff review and approval of a modification to the facility, as described in the safety analysis report, that involves an unreviewed safety question. The modification will install replacement suction strainers for Emergency Core Cooling System (ECCS) pumps.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By July 25, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise

statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, PA 19101, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated May 5, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Dated at Rockville, Maryland, this 18th day of June 1997.

For the Nuclear Regulatory Commission.

Chester Poslusny,

Acting Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–16612 Filed 6–24–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

Toledo Edison Company; et al.; Order Approving Application Regarding Merger Agreement Between Centerior Energy Corporation and Ohio Edison Company

I

Toledo Edison Company (TE), The Cleveland Electric Illuminating Company (CEI), and Centerior Service Company (CSC) are the licensees of the Davis-Besse Nuclear Power Station, Unit 1. TE and CSC (both of which are wholly owned subsidiaries of Centerior Energy Corporation) are authorized to act as agents for CEI, and have exclusive responsibility and control over the physical construction, operation, and maintenance of the facility as reflected in Operating License No. NPF–3. The U.S. Nuclear Regulatory Commission (NRC) issued License No. NPF–3 on April 22, 1977, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). The facility is located on the shore of Lake Erie in Ottawa County, Ohio, approximately 21 miles east of Toledo, Ohio.

II

By letter dated December 13, 1996, TE and CSC, on behalf of themselves and CEI, informed the Commission of a proposed merger of Centerior Energy Corporation and Ohio Edison Company (OE), resulting in the formation of a new holding company, FirstEnergy Corporation, which would replace Centerior Energy Corporation. Supplemental information was submitted by letter dated February 12, 1997.

Under the proposed merger, TE, CEI, CSC, and OE will become wholly owned subsidiaries of FirstEnergy Corporation. The current licensees will continue to hold the license, and no direct transfer of the license will result from the merger. On April 14, 1997, a notice of consideration of approval of application regarding corporate restructuring was published in the **Federal Register** (62 FR 18156). An Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on May 13, 1997 (62 FR 26330).

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted in the letter of December 13, 1996, and other information before the Commission, the NRC staff has determined that the proposed merger will not affect the qualifications of TE, CEI, and CSC as holders of Facility Operating License No. NPF–3, and that the transfer of control of the license, to the extent effected by the merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a Safety Evaluation dated June 19, 1997.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended; 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the Commission approves the application regarding the merger agreement between Centerior Energy Corporation and OE, subject to the following: (1) TE, CEI, and CSC shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from such licensee to its parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent of such licensee's consolidated net utility plant, as recorded on the licensee's books of account; and (2) should the merger not be completed by June 30, 1998, this Order shall become null and void

unless, upon application and for good cause shown, this date is extended.

This Order is effective upon issuance.

IV

By July 25, 1997, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how such person's interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an order designating the time and place of such hearing.

The issue to be considered at any such hearing shall be whether this Order should be sustained.

Any request for a hearing must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Copies should also be sent to the Office of the General Counsel and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Gerald Charnoff, Esquire, of Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

For further details with respect to this action, see the application dated December 13, 1996, as supplemented February 12, 1997, and the Safety Evaluation dated June 19, 1997, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, Ohio.

Dated at Rockville, Maryland, this 19th day of June 1997.

For The U.S. Nuclear Regulatory Commission.

Frank J. Miraglia, Jr.,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–16614 Filed 6–24–97; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50–334]

Duquesne Light Company, et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License No. DPR–66, issued to Duquesne Light Company, et al. (the licensee), for operation of the Beaver Valley Power Station, Unit No. 1 (BVPS–1), located in Beaver County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The proposed action would exempt the licensee from the requirements of 10 CFR 70.24, which require a monitoring system that will energize clear audible alarms if accidental criticality occurs in each area in which special nuclear material is handled, used, or stored. The proposed action would also exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations for use in such an emergency.

The proposed action is in accordance with the licensee's application for exemption dated December 18, 1996, as supplemented by letters dated April 10 and June 11, 1997.

The Need for the Proposed Action

The purpose of 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant the inadvertent criticality with which 10 CFR 70.24 is concerned could occur during fuel handling operations. The special nuclear material that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of special nuclear material that is stored on site is small enough to preclude achieving a critical mass. Because the fuel is not enriched beyond a nominal 5.0 weight percent Uranium-235 and because commercial nuclear plant licensees have procedures and design features that prevent inadvertent criticality, the staff has determined that an inadvertent criticality is highly unlikely as a result of the handling of special nuclear material at a commercial power reactor. The requirements of 10 CFR 70.24, therefore, are not necessary to ensure the safety of personnel during the handling of special nuclear materials at commercial power reactors.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the exemption is granted. Inadvertent or accidental criticality will be precluded through compliance with the BVPS–1 Technical Specifications (TSs), the design of the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures. TSs requirements specify reactivity limits for the fuel storage racks and minimum spacing between the fuel assemblies in the storage racks.

Appendix A of 10 CFR Part 50, ''General Design Criteria for Nuclear Power Plants,'' Criterion 62, requires that the criticality in the fuel storage and handling system be prevented by physical systems or processes, preferably by use of geometrically-safe configurations. This is met at BVPS–1, as identified in the TSs and the Updated Final Safety Analysis Report (UFSAR). BVPS–1 TS 5.3.1.2 states that the new fuel storage racks are designed and shall be maintained with a nominal 21-inch center-to-center distance between fuel assemblies placed in the storage racks. This spacing requirement ensures that k_{eff} will be ≤ 0.95 if the loaded new fuel storage racks are flooded with unborated water and that k_{eff} will be ≤ 0.98 if the loaded new fuel storage racks are moderated by aqueous foam. UFSAR Section 9.12.1.1 (Preventation of Fuel Storage Criticality) states that new fuel assemblies will be stored dry and vertically in the new fuel storage racks with a minimum center-to-center spacing of 21 inches.

The proposed exemption would not result in any significant radiological impacts. The proposed exemption would not affect radiological plant effluents nor cause any significant occupational exposures since the TSs, design controls (including geometric spacing of fuel assembly storage spaces) and administrative controls preclude inadvertent criticality. The amount of

radioactive waste would not be changed by the proposed exemption.

Accordingly, the Commission concludes that the proposed action would result in no significant radiological environmental impact.

The proposed exemption does not result in any significant nonradiological environmental impacts. The proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed exemption, the staff considered denial of the requested exemption. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Beaver Valley Power Station, Unit No. 1, dated July 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on June 3, 1997, the staff consulted with the Pennsylvania State official, Mr. Richard Janati of the Bureau of Radiation Protection, Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 18, 1996, as supplemented April 10 and June 11, 1997, which is available for public inspection at the Commission's Public Document Room, which is located at The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Dated at Rockville, Maryland, this 18th day of June, 1997.

For The Nuclear Regulatory Commission.

Chester Poslusny,

Acting Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–16611 Filed 6–24–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–409]

Lacrosse Boiling Water Reactor; Closing of Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission (NRC) is closing the local public document room (LPDR) for records pertaining to the Dairyland Power Cooperative's LaCrosse Boiling Water Reactor (BWR) located at the LaCrosse Public Library, LaCrosse, Wisconsin, effective June 30, 1997.

The LaCrosse Public Library has served as the LPDR for the LaCrosse BWR for 25 years. In a letter dated February 14, 1997, the library director officially informed the NRC that they no longer wish to serve as the LPDR since there is no longer a demand for the document collection. NRC has made the decision to officially close the LaCrosse LPDR because none of the libraries in the vicinity of the facility are interested in maintaining the document collection, the facility has been shut down since 1987 and is in the SAFSTOR method of decommissioning, and there has been no demonstrated local public interest in the LPDR materials for a number of years. Therefore, effective June 30, 1997, the LPDR will be closed.

Persons now interested in information pertaining to this facility or any other NRC activity may contact the NRC Public Document Room by calling toll-free 1–800–397–4209 or writing to NRC Public Document Room, Washington, DC 20555–0001.

Dated at Rockville, Maryland, this 19th day of June, 1997.

For the Nuclear Regulatory Commission.

Russell A. Powell,

Chief, Freedom of Information/Local Public Document Room Branch, Office of Information Resources Management.

[FR Doc. 97–16616 Filed 6–24–97; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Use of PRA in Plant Specific Reactor Regulatory Activities: Proposed Regulatory Guides, Standard Review Plan Sections, and Supporting NUREG

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission has issued for public comment drafts of four regulatory guides, three Standard Review Plan Sections, and a NUREG document. These issuances follow Publication of the Commission's August 16, 1995 (60 FR 42622) Policy statement on the Use of PRA Methods in Nuclear Regulatory Activities. The NRC has developed draft guidance for power reactor licensees on acceptable methods for using probabilistic risk assessment (PRA) information and insights in support of plant-specific applications to change the current licensing basis (CLB). The use of such PRA information and guidance is voluntary. To facilitate comment, the Commission intends to conduct a workshop during the comment period to explain the draft documents and answer questions. The exact time, location and agenda will be announced in a future issue of the **Federal Register**. Section VI of this notice provides additional information on the scope, purpose and topics for discussion at the workshop.

DATES: Comment period expires September 23, 1997. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: David L. Meyer, Chief, Rules and Directives Branch, Office of Administration, Mail Stop T–6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

In addition to written comments, please (1) attach a diskette containing your comments, in either ASCII text or Wordperfect format (Version 5.1 or 6.1), or (2) submit your comments electronically via the NRC Electronic Bulletin Board on FedWorld or the NRC's Interactive Rulemaking Website.

Deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:30am and 4:15pm, Federal workdays.

Copies of the draft regulatory guides, standard review plan sections and NUREG are available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555–0001. A free single copy of these draft documents to the extent of supply, may be requested by writing to Distribution Services, Printing, Graphics and Distribution Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Fax to (301) 415–5272. Electronic copies of the draft document are also accessible on the NRC's Interactive Rulemaking Website through the NRC home page (http://www.nrc.gov). This site provides the same access as the FedWorld bulletin board, including the facility to upload comments as files (any format), if your web browser supports the function.

For more information on the NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555–0001, telephone (301) 415–5780; e-mail AXD3@nrc.gov. For information about the Interactive Rulemaking Website, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

The NRC subsystems on FedWorld can be accessed directly by dialing the toll free number: 1–800–303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC NUREGs and Reg Guides for Comment subsystem can then be accessed by selecting the ''Rule Menu'' option from the ''NRC Main Menu.'' For further information about options available for NRC at FedWorld, consult the ''Help/Information Center'' from the ''NRC Main Menu.'' Users will find the FedWorld online User's Guides'' particularly helpful. Many NRC subsystems and databases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, 703–321–3339, or by using Telnet via Internet, fedworld.gov. If using 703–321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main Fedworld menu by selecting the ''Regulatory, Government Administration and State Systems,'' then selecting ''Regulatory, Information Mall.'' At that point, a menu will be displayed that has an option ''U.S. Nuclear Regulatory Commission'' that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing ''/go nrc'' at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the ''Return to FedWorld'' option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems but you will not have access to the main Fedworld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is included. there is a 15-minute time limit for FTP access.

Although Fedworld can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules menu.

FOR FURTHER INFORMATION CONTACT: Mark Cunningham, Office of Nuclear Regulatory Research, MS: T10–E50, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, (301) 415–6189.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1995, (60 FR 42622) the Commission published in the **Federal Register** a final policy statement on the Use of Probabilistic Risk Assessment Methods in Nuclear Regulatory Activities. The policy statement included the following policy regarding expanded NRC use of PRA:

1. The use of PRA technology should be increased in all regulatory matters to the extent supported by the state-of-the-art in PRA methods and data and in a manner that complements the NRC's deterministic approach and supports the NRC's traditional defense-in-depth philosophy.

2. PRA and associated analyses (e.g., sensitivity studies, uncertainty analyses, and importance measures) should be used in regulatory matters, where practical within the bounds of the state-of-the-art, to reduce unnecessary conservatism associated with current regulatory requirements, regulatory guides, license commitments, and staff practices. Where appropriate, PRA should be used to support proposals for additional regulatory requirements in accordance with 10 CFR 50.109 (Backfit Rule). Appropriate procedures for including PRA in the process for changing regulatory requirements should be developed and followed. It is, of course, understood that the intent of this policy is that existing rules and regulations shall be complied with unless these rules and regulations are revised.

3. PRA evaluations in support of regulatory decisions should be as realistic as practicable and appropriate supporting data should be publicly available for review.

4. The Commission's safety goals for nuclear power plants and subsidiary numerical objectives are to be used with appropriate consideration of uncertainties in making regulatory judgments on the need for proposing and backfitting new generic requirements on nuclear power plant licensees.

It was the Commission's intent that implementation of this policy statement would improve the regulatory process in three areas:

1. Enhancement of safety decision making by the use of PRA insights,

2. More efficient use of agency resources, and

3. Reduction in unnecessary burdens on licensees.

In parallel with the development of Commission policy on uses of risk assessment methods, the NRC developed an agency-wide implementation plan for application of probabilistic risk assessment insights within the regulatory process (SECY–95–079). This implementation plan included tasks to develop Regulatory Guides (RG) and Standard Review Plans (SRP) in the areas of:

—General guidance,
—Inservice inspection (ISI),
—Inservice testing (IST),
—Technical specification (TS), and
—Graded quality assurance (GQA).

These RGs and SRPs are intended to help implement the Commission's August 1995 policy on the use of risk information in the regulatory process and to provide an acceptable approach for power reactor licensees to prepare and submit and NRC staff to review applications for proposed plant-specific changes to the current licensing basis that utilize risk information. Currently, draft RGs/SRPs have been developed and are ready for comment in the areas of general guidance, IST and TS. A draft RG for GQA has also been developed and is ready for comment. No SRP has been developed for GQA, since the NRC staff will utilize its inspection process

in the GQA area. In addition, the NRC has prepared draft NUREG–1602, ''Use of PRA in Risk-Informed Applications,'' to provide reference information for licensees and NRC staff and it is also ready for public comment. Each of these documents is discussed in more detail below.

II. An Overview of Draft RGs, SRPs, and NUREG–1602

The specific documents available for comment are:

- Draft regulatory guide DG 1061, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Current Licensing Basis,'' and its companion SRP, Chapter 19,
- Draft regulatory guide DG–1062 ''An Approach for Plant-Specific, Risk-Informed, Decision Making: Inservice Testing'' and its companion SRP, Chapter 3.9.7,
- Draft regulatory guide DG–1064, ''An Approach for Plant-Specific, Risk-Informed Decision Making: Graded Quality Assurance,''
- Draft regulatory guide DG–1065, ''An Approach for Plant-Specific, Risk-Informed Decision Making: Technical Specifications'' and its companion SRP, Chapter 16.1, and
- Draft NUREG–1602, ''Use of PRA in Risk-Informed Applications.''

The purpose of the RGs and SRPs is to provide guidance to power reactor licensees and NRC staff reviewers on an acceptable approach for utilizing risk information to support requests for changes in a plant's CLB. The purpose of NUREG–1602 is to provide reference information useful in making decisions on the scope and attributes of PRA. The RGs describe an alternate means by which licensees can propose plant-specific CLB changes under 10 CFR Part 50. Adopting the approach of these RGs is voluntary. Licensees submitting applications for changes to their CLB may use this approach or an alternative equivalent approach. To encourage the use of risk information in such applications, the staff intends to give priority to applications for burden reduction that use risk information as a supplement to traditional engineering analyses, consistent with the intent of the Commission's policy. All applications that improve safety will continue to receive high priority.

The general RG/SRP have been developed to provide an overall framework and guidance that is applicable to any proposed CLB change where risk insights are used to support the change. The application-specific RGs/SRPs (i.e., IST, TS, GQA) build upon and supplement the general guidance for proposed CLB changes in their respective technical areas. Each application-specific RG/SRP references the general RG/SRP, states that the general guidance is applicable and provides additional guidance specific to the technical area being addressed.

The guidance provided in these documents is designed to encourage licensees to use risk information by defining an acceptable framework for the use of risk information on a plant-specific basis, and by promoting consistency in PRA applications. It is expected that the long-term use of risk information in plant-specific licensing actions will result in improved safety by focusing attention on the more risk significant aspects of plant design and operation. The draft guidance provides flexibility to licensees by allowing them to define the scope of the analysis required to support their proposed change and to perform appropriate analysis to justify proposed changes to the plant's CLB.

In conjunction with developing these RGs and SRPs, the staff has also been working with several licensees on pilot applications of risk informed regulation in the technical areas listed above. The knowledge gained to date in interacting with licensees on these pilot applications has been used to help define the content and guidance contained in these RGs/SRPs. Additional interactions are expected over the next several months as work on these pilot applications continues and licensees and other interested persons have an opportunity to review the draft RGs/SRPs. The results of these additional interactions will be factored into the final RGs/SRPs.

III. Policy Issues

On May 15, 1996, the Commission requested the staff to identify and recommend resolution of the following four policy issues associated with risk-informed changes to a plant's CLB:

- The role of performance-based regulation,
- Plant-specific application of safety goals,
- Risk neutral vs. increases in risk,
- implementation of changes to risk-informed IST and ISI requirements.

On January 22, 1997, the Commission provided the following guidance on these issues:

A. The Role of Performance-Based Regulation in the PRA Implementation Plan

The Commission instructed the staff to include, where practical, performance-based strategies in the implementation of the risk-informed regulatory process. Furthermore, the Commission indicated that application of performance-based approaches should not be limited to risk-informed initiatives and that performance-based initiatives that do not explicitly reference criteria derived from PRA insights should not be excluded from consideration. The Commission also instructed the staff to include in the PRA Implementation Plan, or in a separate plan, how these performance-based initiatives will be phased into the overall regulatory improvement and oversight program and to solicit input from industry on (or develop on its own) additional performance-based objectives which are not amenable to probabilistic risk analysis but could be ranked according to, for example, a relative hazards analysis, and phase in these initiatives.

B. Plant-Specific Application of Safety Goals

The Safety Goals policy statement, issued by the Commission in 1986, established two qualitative safety goals to help ensure that nuclear power plant operations do not significantly increase risk to individuals or to the society. The policy statement also defined two Quantitative Health Objectives (QHO) for use ''in determining achievement of the qualitative goals.'' Subsequently, the Commission approved for use two subsidiary objectives derived from the Safety Goal QHOs, one on core-damage frequency and one on containment performance, for use in assessing reactor designs for generic actions. The Commission approved the Safety Goals for use in generic actions with the intent that they would define ''how safe is safe enough'' in deciding how far to go when proposing safety enhancements.

The staff has considered the need for risk guidelines to support regulatory decision-making in plant-specific circumstances, recognizing that the use of risk information remains complementary to traditional engineering analysis and judgment. Specifically, the staff recommended the development of guidelines for plant-specific applications, derived from the Commission's current Safety Goals and/or subsidiary objectives and requested Commission approval.

The Commission tentatively approved the plant-specific application of safety goals and/or their subsidiary objectives.

C. Risk Neutral vs. Increases in Risk

This policy issue is related to whether to allow small increases in calculated plant risk in approving a change to the CLB.

The Commission approved small increases in risk under certain conditions, for proposed changes to a plant's CLB. In giving this approval the Commission noted that the terms ''small'' and ''under certain conditions'' require more precise definition. The staff was requested to provide a sound rationale for judging small increases and provide for explicit consideration of uncertainties. Criteria for judging small increases in risk should be considered in the context of maintaining reasonable assurance that there is no undue risk to public health and safety.

Moreover, the Commission asked the staff that, in its development of risk-informed guidance and review of applications regarding risk-informed initiatives, to evaluate all safety impacts of proposed changes in an integrated manner including the use of risk insights to identify areas where requirements should be increased or improvements could/should be implemented.

D. Implementation of Changes to Risk-Informed IST and ISI Requirements

This policy issue is related to identifying a means for implementing risk-informed inservice inspection and testing programs until rulemaking is complete. The alternatives are to treat proposed changes as exceptions to 10 CFR 50.55(a) or to treat them as authorized alternatives under the current rule. The Commission approved risk informed ISI and IST changes as authorized alternatives under 10 CFR 50.55a(a)(3)(i) to approve the pilot plant applications, provided appropriate findings can be made. In addition, the Commission instructed the staff that in cases where the findings necessary to approve the alternative cannot be made, then the use of exemptions should be considered.

IV. Structure, Guidelines and Rationale for RGs/SRPs

The approach described in each of the RGs/SRPs has four basic steps. These are:

—Define the proposed change;
—Perform an integrated engineering analysis (which includes both traditional engineering and risk analysis) and use of an integrated decision process;
—Monitoring and feedback to verify assumptions and analysis; and
—Document and submit proposed change.

Five fundamental safety principles are described which should be met in each application for a change in the CLB. These principles are:

—The proposed change meets the current regulation. This principle applies unless the proposed change is explicitly related to a requested exemption or rule change (i.e., a 50.12 ''specific exemption'' or a 2.802 ''petition for rulemaking'');
—Defense-in-depth is maintained;
—Sufficient safety margins are maintained;
—Proposed increases in risk, and their cumulative effect, are small and do not cause the NRC Safety Goals to be exceeded;
—Performance-based implementation and monitoring strategies are proposed that address uncertainties in analysis models and data and provide for timely feedback and corrective action.

These principles represent fundamental safety practices that the staff believes must be retained in any change to a plant's CLB to maintain reasonable assurance that there is no undue risk to public health and safety. Each of these principles is to be considered in the integrated engineering analysis and decision-making process.

The guidelines for assessing risk proposed in the RGs/SRPs are derived from the Commission's Safety Goal Quantitative Health Objectives (QHOs). Specifically, the subsidiary objectives of Core Damage Frequency (CDF) and Large Early Release Frequency (LERF) are used as the measures of risk against which changes in the CLB will be assessed, in lieu of the QHOs themselves, which require level 3 PRA information (offsite health effects). These were chosen to simplify the scope of PRA analysis needed, to avoid the large uncertainties associated with level 3 PRA analysis, and to be consistent with previous Commission direction to decouple siting from plant design.

The values used in the RGs/SRPs as guidelines for CDF and LERF were selected to be consistent with the Safety Goal QHOs and previous Commission guidance. Specifically, a CDF value of 10^{-4}/RY is proposed as the guideline where further increases in CDF would not be acceptable (i.e., plants with CDF$\geq 10^{-4}$/RY would be expected to propose changes that result in CDF decreases or are neutral). The CDF value of 10^{-4}/RY is the value endorsed by the Commission in a Staff Requirements Memorandum dated June 15, 1990, as a benchmark objective for accident prevention. For plants with CDFs $<10^{-4}$/RY, guidelines are proposed on changes in CDF (ΔCDF) that ensure increases in risk from CLB changes are made in small steps and that increased NRC management attention is provided for proposed changes that approach the guidelines (i.e., CDFs in the range 10^{-5}/RY–10^{-4}/RY and ΔCDF$>10^{-6}$/RY). The use of small steps is consistent with a measured approach (allowing time for monitoring, feedback and corrective action) and the values chosen for ΔCDF are consistent with the Commission's Regulatory Analysis Guidelines (NUREG/BR–0058, Rev. 2).

The guidelines on LERF are derived from the Commission's Safety Goal QHO for early fatality risk. A LERF value of 10^{-5}/RY is proposed as the guideline where further increases in LERF would not be acceptable (i.e., plants with a LERF$\geq 10^{-5}$/RY would be expected to propose changes that result in LERF decreases or are neutral). Similar to CDF, a range is proposed where increased NRC management attention is required if LERF approaches the guideline (i.e., LERF in the range of 10^{-6}/RY to 10^{-5}/RY). The value of 10^{-5}/RY for the LERF guideline corresponds to that value, estimated from existing PRA results, necessary to ensure that the early-fatality QHO would be met without undue conservatism. In effect, the guideline value for LERF is a surrogate for the Commission's QHO on early fatality risk. Guidelines for changes in LERF (ΔLERF) are used that limit increases in risk to small values (i.e., ΔLERF $<10^{-6}$/RY) to ensure that increases are made in small increments, are consistent with the Regulatory Analysis Guidelines and, similar to ΔCDF, require increased management attention when they approach the guideline value (i.e., ΔLERF in the range of 10^{-7}/RY to 10^{-6}/RY).

The CDF/ΔCDF and LERF/ΔLERF guidelines are intended for comparison with a full-scope PRA (i.e., full power, low power and shutdown conditions and internal and external events). It is expected that the cumulative impact of previous CLB changes will also be reflected in the PRA. However, it is recognized that less than full-scope PRA analysis will likely be acceptable for many proposed CLB changes and the RG/SRP guidance is intended to allow licensees flexibility to do analyses appropriate for their proposed change and to allow the use of qualitative factors in the decision process. In addition, mean values of CDF and LERF are to be compared against the guidelines. However, when a proposed change is closer to the guidelines, a more comprehensive uncertainty and sensitivity analysis is expected that includes the consideration of qualitative factors. Only general guidelines on uncertainty/sensitivity analyses are included in the RGs/SRPs to allow

licensees flexibility to provide analyses appropriate for their specific application.

Monitoring and feedback strategies are to be utilized in implementing the proposed CLB change to help verify assumptions and analysis and to allow for corrective action should performance be less than assumed in the analysis. In addition, NRC expects licensees to identify how and where their proposed changes will be documented as part of the plant's CLB. This should include documentation that clearly establishes the basis for the change, ensures that commitments are known and provides sufficient documentation to allow inspection and enforcement, if appropriate. Related to the above, since these RGs/SRPs allow the use of risk information and monitoring programs to support CLB changes associated with safety related systems, structures and components (SSCs), it is reasonable to expect that the quality of these analyses and monitoring programs should be consistent with the quality of other analyses and activities associated with safety related SSCs (i.e., 10 CFR part 50, Appendix B, ''Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants''). Accordingly, DG–1061 includes guidance regarding quality assurance, including that associated with the PRA,that ensures the pertinent requirements of 10 CFR part 50, Appendix B are met. In addition, the draft RGs/SRPs use the definition of CLB that is currently in 10 CFR part 54 ''License Renewal.'' Although not officially incorporated in 10 CFR part 50, this definition is considered appropriate for use in these RGs/SRPs.

As mentioned above, the draft guidance encourages licensees to utilize risk insights to improve safety, as well as to propose reductions of unnecessary burdens. The Commission's Safety Goals, their subsidiary objectives and Regulatory Analysis Guidelines have been used to derive guidelines for judging the acceptability of any calculated risk increases associated with the proposed CLB change. In this regard, a measured approach to reviewing and accepting changes to CLBs that increase risk has been taken. Specifically, the guidelines used correspond to small calculated increases in risk. In theory, one could construct an even more generous regulatory framework for consideration of those risk-informed changes which may have the effect of increasing risk to the public. Such a framework would include, of course, assurance of continued adequate protection (that level of protection of the public health and safety which must be reasonably assured regardless of economic cost), but it could also include provision for possible elimination of all measures not needed for adequate protection which either do not contribute to a substantial reduction in overall risk or result in continuing costs which are not justified by the safety benefits. However, a more restrictive practice has been used which would permit only small increases in risk, and then only when it is reasonably assured, among other things, that sufficient defense in depth and safety margins are maintained. This practice is used because of the uncertainties in PRA and to account for the fact that safety issues continue to emerge regarding design, construction, and operational matters notwithstanding the maturity of the nuclear power industry. In addition, limiting risk increases to small values is considered prudent until such time as experience is obtained with the methods and applications discussed in the RGs/SRPs.

V. Comments

The staff is soliciting comments related to the guidance described in the draft RGs, SRPs and NUREG–1602. Comments submitted by the readers of this FRN will help ensure that these draft documents have appropriate scope, depth, quality, and effectiveness. Alternative views, concerns, clarifications, and corrections expressed in public comments will be considered in developing the final documents.

VI. Workshop

The Commission intends to conduct a workshop to discuss and explain the material contained in the draft guides, SRPs and NUREG–1602, and to answer questions and receive comments and feedback on the proposed documents. The purpose of the workshop is to facilitate the comment process. In the workshop the staff will describe each document, its basis and solicit comment and feedback on their completeness, correctness and usefulness. Since these documents cover a wide range of technical areas, many topics will be discussed. Listed below are topics on which discussion and feedback are sought at the workshop:

(1) Overall Approach

(A) Is it appropriate to apply the Commission's Safety Goals and their subsidiary objectives on a plant specific basis?

(B) Is it appropriate to allow, under certain conditions, changes to a plant's CLB that increase CDF and/or LERF?

(C) Is the level of detail in the guidance contained in the proposed Regulatory Guides and SRPs clear and sufficient, or is more detailed guidance necessary? What level of detail is needed?

(D) Are the four elements of the risk-informed process described in the Reg Guides and SRPs clear and sufficient?

(E) Is the guidance on the treatment of uncertainties clear and sufficient, or is additional guidance necessary? What additional guidance is needed?

(F) Is guidance on the acceptability and treatment of temporary changes in the CLB (i.e., temporary changes in risk) needed? If so, what guidance and acceptance guidelines should be included? Should the guidance be different for full-power operation vs a shutdown condition?

(G) Is it appropriate to use the definition of ''current licensing basis'' included in 10 CFR 54 ''License Renewal,'' in these RGs/SRPs? What other definition would be more appropriate?

(H) Should licensees be *required* to submit risk information in support of proposed changes to their CLB?

(I) Are the guidelines for quality described in DG–1061 sufficient to ensure appropriate quality in those activities that support proposed changes to the CLB for safety related systems, structures and components? Are the appropriate provisions from 10 CFR 50, Appendix B, ''Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants'' applied to the PRA?

(J) Should a licensee's PRA be required to be included in the NRC's docket file and updated as necessary to reflect previous changes and recent operating experience?

(K) What other areas, besides graded QA, Tech Specs, IST and ISI could this process and these guidelines be applied to?

(2) Engineering Evaluation

(A) Are the proposed safety principles clear and sufficient? What should be clarified and/or added?

(B) Is sufficient guidance provided regarding the intent, scope, and level of detail requested in the submittal with respect to the evaluation of the safety principles? What should be added? For example:

1. Should there be different guidance on defense-in-depth for those items analyzed in the PRA versus those not analyzed? What should the differences be?

2. Should there be quantitative guidelines for determining the sufficiency of defense-in-depth and safety margins?

(C) Is the guidance associated with the probabilistic analysis sufficient? For example:

1. Is additional guidance on the use of qualitative risk evaluations necessary? What additional guidance would be appropriate?
2. Are the proposed acceptance guidelines for CDF and LERF and changes in CDF and LERF appropriate? Are they too restrictive or too liberal? What guidelines would be more appropriate?
3. Is more specific or less detailed guidance needed on comparison of PRA results with the CDF and LERF and the ΔCDF and ΔLERF guidelines?
4. Should there be additional guidance on the number of proposed risk increases which can be submitted in any given year?
5. Should there be separate LERF guidelines for PWRs and BWRs? What should they be?
6. Should there be separate LERF guidelines for shutdown conditions/external events? What should they be?
7. Should there be a guideline on long term release frequency to supplement LERF? What should it be based upon?
8. Is the guidance in Appendix B of DG–1061 for estimating LERF sufficient? What else is needed? (It should be noted that the staff intends to expand this guidance to cover shutdown conditions and external events).
9. Should there be acceptance guidelines for the use of PRA level 3 (segment of PRA that includes estimation of consequences/health effects and risk to the public) information? What guidelines would be appropriate?
10. Should the acceptance guidelines specify a confidence level that the PRA results should meet when being compared to the risk guidelines? What is an appropriate confidence level?
11. Should a confidence level or uncertainty level be used to define the ''management attention'' region in, lieu of a CDF and LERF range?

(3) Performance Monitoring and Feedback

(A) Should the use of performance monitoring be more widely applied in regulation and regulatory practice, or is it sufficient to implement it through the elements described in the proposed Regulatory Guides?

(B) Is performance monitoring and feedback an appropriate element of the risk-informed process? Should it be used to a greater or lesser degree?

(C) Is the guidance on performance monitoring and feedback clear and sufficient? What should be improved?

(4) Graded Quality Assurance Regulatory Guide (DG–1064)

(A) Is the approach for determining the safety-significance of plant SSCs appropriate? Is it sufficient to identify high and low safety significant categories? Is the amount of risk analysis overly burdensome relative to the potential benefits?

(B) Is the guidance in the proposed regulatory guide regarding the content of QA programs for low safety significant SSCs appropriate? What additional guidelines are needed, and/or what portions of the proposed guidelines should be deleted?

(C) Are there any quantitative data that can be used to assess the risk impact (i.e., CDF or LERF) of reducing QA controls on equipment performance?

(D) Is the proposed scope of graded QA, that includes safety-related and other important plant equipment as covered by the Maintenance Rule, appropriate?

(E) Is the guidance on equipment-performance-monitoring strategies sufficient?

(F) Is the guidance sufficient regarding the QA controls for safety-significant, but non-safety-related, equipment that should be included in the licensee's QA program? What guidance should be included?

(G) Should the guidance allow for further removal of QA requirements? In what areas should this be done and what guidance would be appropriate? For example, is it appropriate for a graded QA program to eliminate all requirements associated with some of the 18 criteria specified in 10 CFR part 50, Appendix B?

(5) Technical Specifications Regulatory Guide (DG–1065) and SRP

(A) Are the proposed acceptance guidelines on incremental conditional core damage probability and incremental conditional large early release probability from a single AOT change (5E–07 and 5E–08, respectively) appropriate?

(B) Should there be a guideline on maximum conditional CDF/LERF during an AOT? What should it be?

(6) Inservice Testing Regulatory Guide (DG–1062) and SRP

(A) PRA models of component unavailability typically use a parameter lambda (λ) to characterize the component's failure rate, and this parameter is often considered to be a constant value. Is the assumption of constant value for λ realistic? What different values might be more realistic and what evidence (data) supports the alternate values?

(B) Is it appropriate, as part of a risk-informed program, to require licensees to look outside the ASME code boundary and identify candidate components for testing and then apply ASME criteria to the conduct of those tests? What is a reasonable way to deal with relatively high-risk components that are not part of a currently prescribed IST program?

(C) Is it appropriate to use the ''other acceptable methods'' provision of 10 CFR 50.55a to implement changes to the CLB?

(7) NUREG–1602

(A) Draft NUREG–1602 provides reference material on the scope and quality of a PRA. Is the information in draft NUREG–1602 complete and correct? Is it useful as reference material in making assessments on an application specific basis on the scope and quality of the risk assessment to support that particular application? How could it be improved? For example, should it specify acceptable PRA methods?

(B) Would draft NUREG–1602 be useful as a starting point to develop a national consensus standard on PRA? What would be needed?

(C) Is a national consensus standard on PRA needed or desirable?

VII. Paperwork Reduction Act Statement

These draft regulatory guides contain information collections that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These regulatory guides will be submitted to the Office of Management and Budget for review and approval of the information collections before the final guides are published.

VIII. Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number.

Dated at Rockville, Maryland, this 13th day of June, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97–16072 Filed 6–18–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Capital Properties, Inc., Common Stock, $1.00 Par Value) File No. 1–8499

June 19, 1997.

Capital Properties, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'').

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

According to the Company, the Board of Directors of the Company adopted resolutions on May 15, 1997, to withdraw the Security from listing on the BSE and instead, to list such Security on the American Stock Exchange, Inc. (''Amex''). The Company has registered its Security for inclusions on the Amex effective June 16, 1997.

The Company has complied with the rules of the BSE by notifying them of its intention to withdraw its Security. The BSE has raised no objections to the request.

Any interested person may, on or before July 11, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–16627 Filed 6–24–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22717; 811–1138]

State Bond Equity Funds, Inc.; Notice of Application

June 19, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: State Bond Equity Funds, Inc.

RELEVANT ACT SECTION: Order requested pursuant to section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on February 20, 1997, and amended on May 29, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 14, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant: State Bond Equity Funds, Inc., 100 North Minnesota Street, P.O. Box 69, New Ulm, Minnesota 56073–0069.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Staff Attorney, at (202) 942–0569, or Elizabeth G. Osterman, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a registered open-end management investment company, organized as a Maryland corporation. SEC records indicate that the applicant filed its notification of registration on Form N–8A on December 15, 1961, and filed a registration statement under the Act on Form N–8B–1 on January 2, 1962. Applicant commenced its initial public offering thereafter. Applicant is advised by ARM Capital Advisors, Inc. (''ARM'').

2. On August 16, 1996, applicant's board of directors considered an Agreement and Plan of Reorganization (the ''Reorganization Agreement'') between applicant and Federated Equity Funds pursuant to which applicant would transfer substantially all of its assets to the Federated Growth Strategies Fund (the ''Federated Fund''), a portfolio of the Federated Equity Funds. The Federated Fund is advised by Federated Management, a subsidiary of Federated Investors (together, ''Federated''). Pursuant to the Reorganization Agreement, applicant would transfer substantially all of its assets to the Federated Fund in exchange for Class A shares of the Federated Fund. The directors considered several factors and identified certain potential benefits likely to result from the reorganization, including, (a) operating efficiencies as a result of the larger combined size of applicant and the Federated Fund, (b) applicant and the Federated Fund have substantially similar investment objectives, (c) although the maximum front end sales load of the Federated Fund is higher than that of applicant, it is lower than the average for equity growth funds distributed through brokers, (d) expenses of the reorganization will be borne by ARM and/or Federated, and (e) the anticipated tax free nature of the reorganization. The directors concluded that the reorganization presents no significant risks or costs that would outweigh the benefits discussed above. Applicant's board of directors unanimously approved the reorganization at a meeting of the board on August 26, 1996.

3. On September 24, 1996, Federated Fund filed a registration statement and proxy materials on Form N–14 soliciting approval of the reorganization by applicant's shareholders. The registration statement was declared effective on October 24, 1996. Shareholders approved the reorganization at a special meeting held on December 9, 1996.

4. On December 13, 1996, the date of the reorganization, applicant had 7,784,505.862 shares of common stock outstanding. Applicant's net asset value was $9.54 per share and its aggregate net asset value was $74,232,691.17. Applicant transferred assets valued at $74,232,691.17, and received in

exchange 3,104,686.240 Class A shares of the Federated Fund, representing an aggregate net asset value equal to the aggregate net asset value of applicant's transferred shares. Such shares were then distributed to the shareholders of applicant, on that date, in proportion to each shareholder's interest in applicant based on net asset value.

5. All costs involved in the reorganization will be paid by ARM and/or Federated.

6. Applicant has no securityholders and no remaining assets, debts, or liabilities as of the date of the application.

7. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs.

8. Applicant intends to file articles of dissolution with the Maryland State Department of Assessments and Taxation following deregistration.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16630 Filed 6–24–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22721; 811–4445]

State Bond Income Funds, Inc.; Notice of Application

June 19, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: State Bond Income Funds, Inc.

RELEVANT ACT SECTION: Order requested pursuant to section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on February 20, 1997, and amended on May 29, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 14, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant: State Bond Income Funds, Inc., 100 North Minnesota Street, P.O. Box 69, New Ulm, Minnesota 56073–0069.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Staff Attorney, at (202) 942–0569, or Elizabeth G. Osterman, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a registered open-end management investment company, organized as a Maryland corporation. Applicant filed its notification of registration on Form N–8A under the Act on November 5, 1985. SEC records indicate that applicant also fined a registration statement on Form N–1A under the Act and under the Securities Act of 1933 on November 5, 1985. On December 13, 1985, applicant commenced its initial public offering. Applicant is advised by ARM Capital Advisors, Inc. (''ARM'').

2. On August 16, 1996, applicant's board of directors considered an Agreement and Plan of Reorganization (the ''Reorganization Agreement'') between applicant and Federated Fund for U.S. Government Securities, Inc. (the ''Federated Fund''). The Federated Fund is advised by Federated Advisers, a subsidiary of Federated Investors (together, ''Federated''). Pursuant to the Reorganization Agreement, applicant would transfer all of its assets to the Federated Fund in exchange for Class A shares of the Federated Fund. The directors identified certain potential benefits likely to result from the reorganization, including, (a) operating efficiencies as a result of the larger combined size of the applicant and the Federated Fund, (b) applicant and the Federated Fund have substantially similar investment objectives, (c) applicant's maximum front end sales charge is higher than that of the Federated Fund, (d) expenses of the reorganization will be borne by ARM and/or Federated, and (e) the anticipated tax free nature of the reorganization. The directors concluded that the reorganization presents no significant risks or costs that would outweigh the benefits discussed above. Applicant's board of directors unanimously approved the reorganization at a meeting of the board held on August 26, 1996.

3. On October 2, 1996, Federated Fund filed a registration statement and proxy materials on Form N–14 soliciting approval of the reorganization by applicant's shareholders. The registration statement was declared effective on October 24, 1996. Shareholders approved the reorganization at a special meeting held on December 9, 1996.

4. On December 13, 1996, the date of the reorganization, applicant had 2,508,514.997 shares of common stock outstanding. Applicant's net asset value was $5.09 per share and its aggregate net asset value was $12,774,913.98. Applicant transferred assets valued at $12,774,913.98, and received in exchange 1,625,428.350 Class A shares of the Federated Fund, representing an aggregate net asset value equal to the aggregate net asset value of applicant's transferred shares. Such shares were then distributed to the shareholders of applicant, on that date, in proportion to each shareholder's interest in applicant based on net asset value.

5. All costs involved in the reorganization will be paid by ARM and/or Federated.

6. Applicant has no securityholders and no remaining assets, debts, or liabilities as of the date of the application.

7. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs.

8. Applicant intends to file articles of dissolution with the Maryland State Department of Assessments and Taxation following deregistration.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16634 Filed 6–24–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22719; 811–1256]

State Bond Investment Funds, Inc.; Notice of Application

June 19, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: State Bond Investment Funds, Inc.

RELEVANT ACT SECTION: Order requested pursuant to section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on February 20, 1997, and amended on May 29, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 14, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant: State Bond Investment Funds, Inc., 100 North Minnesota Street, P.O. Box 69, New Ulm, Minnesota 56073–0069.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Staff Attorney, at (202) 942–0569, or Elizabeth G. Osterman, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a registered open-end management investment company, organized as a Maryland corporation. SEC records indicate applicant filed its notification of registration on Form N–8A and filed a registration statement under the Act on Form N–8B–1 on April 27, 1964. Applicant commenced its initial public offering thereafter. Applicant is advised by ARM Capital Advisors, Inc. (''ARM'').

2. On August 16, 1996, applicant's board of directors considered an Agreement and Plan of Reorganization (the ''Reorganization Agreement'') between applicant and Federated American Leaders Fund, Inc. (the ''Federated Fund''). The Federated Fund is advised by Federated Advisers, a subsidiary of Federated Investors (together, ''Federated''). Pursuant to the Reorganization Agreement, applicant would transfer substantially all of its assets to the Federated Fund in exchange for Class A shares of the Federated Fund. The directors considered several factors and identified certain potential benefits likely to result from the reorganization, including, (a) operating efficiencies as a result of the larger combined size of the applicant and the Federated Fund, (b) applicant and the Federated Fund have substantially similar investment objectives, (c) although the Federated Fund's maximum front end sales charge is higher than that of the applicant, it is lower than the average for equity funds distributed through brokers, (d) expenses of the reorganization will be borne by ARM and/or Federated, and (e) the anticipated tax free nature of the reorganization. The directors concluded that the reorganization presents no significant risks or costs that would outweigh the benefits discussed above. Applicant's board of directors unanimously approved the reorganization at a meeting of the board on August 26, 1996.

3. On October 1, 1996, Federated Fund filed a registration statement and proxy materials on Form N–14 soliciting approval of the reorganization by applicant's shareholders. The registration statement was declared effective on October 24, 1996. Shareholders approved the reorganization at a special meeting held on December 9, 1996.

4. On December 13, 1996, the date of the reorganization, applicant had 4,535,346.897 shares of common stock outstanding. Applicant's net asset value was $10.68 per share and its aggregate net asset value was $48,458,063.17. Applicant transferred assets valued at $48,458,063.17, and received in exchange 2,358,159.690 Class A shares of the Federated Fund, representing an aggregate net asset value equal to the aggregate net asset value of applicant's transferred shares. Such shares were then distributed to the shareholders of applicant, on that date, in proportion to each shareholder's interest in applicant based on net asset value.

5. All costs involved in the reorganization will be paid by ARM and/or Federated.

6. Applicant has no securityholders and no remaining assets, debts, or liabilities as of the date of the application.

7. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs.

8. Applicant intends to file articles of dissolution with the Maryland State Department of Assessments and Taxation following deregistration.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16632 Filed 6–24–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22718; 811–3299]

State Bond Money Funds, Inc.; Notice of Application

June 19, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: State Bond Money Funds, Inc.

RELEVANT ACT SECTION: Order requested pursuant to section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on February 20, 1997, and amended on May 29, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a coy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 14, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests

should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant: State Bond Money Funds, Inc., 100 North Minnesota Street, P.O. Box 69, New Ulm, Minnesota 56073–0069.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Staff Attorney, at (202) 942–0569, or Elizabeth G. Osterman, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a registered open-end management investment company, organized as a Maryland corporation. Applicant filed its notification of registration on Form N–8A under the Act and filed a registration statement on Form N–1A under the Act and under the Securities Act of 1933 on October 30, 1981. On February 19, 1982 applicant commenced its initial public offering. Applicant is advised by ARM Capital Advisors, Inc. (''ARM'').

2. On August 16, 1996, applicant's board of directors considered an Agreement and Plan of Reorganization (the ''Reorganization Agreement'') between applicant and Money Market Obligations Trust pursuant to which applicant would transfer all of its net assets to Automated Cash Management Trust (the ''Federated Fund''), a portfolio of the Money Market Obligations Trust. The Federated Fund is advised by Federated Management, a subsidiary of Federated Investors (together ''Federated''). Pursuant to the Reogranization Agreement, applicant would transfer all of its assets to the Federated Fund in exchange for Institutional Service Shares of the Federated Fund. The directors identified certain potential benefits likely to result from the reorganization, including, (a) operating efficiencies as a result of the larger combined size of applicant and the Federated Fund, (b) applicant and the Federated Fund have substantially similar investment objectives, and (c) expenses of the reorganization will be borne by ARM and/or Federated. The directors concluded that the reorganization presents no significant risks or costs that would outweigh the benefits discussed above. Applicant's board of directors unanimously approved the reorganization at a meeting of the board held on August 26, 1996.

3. On October 10, 1996, Federated Fund filed a registration statement and proxy materials on Form N–14 soliciting approval of the reorganization by applicant's shareholders. The registration statement was declared effective on November 24, 1996. Shareholders approved the reorganization at a special meeting held on December 9, 1996.

4. On December 13, 1996, the date of the reorganization, applicant had 3,127,230.23 shares of common stock outstanding. Applicant's net asset value was $1.00 per share and its aggregate net asset value was $3,127,231.73. Applicant transferred assets valued at $3,127,231.73, and received in exchange 3,127,230.23 Institutional Service Shares of the Federated Fund, representing an aggregate net asset value equal to the aggregate net asset value of applicant's transferred shares. Such shares were then distributed to the shareholders of applicant, on that date, in proportion to each shareholder's interest in applicant based on net asset value.

5. All costs involved in the reorganization will be paid by ARM and/or Federated.

6. Applicant has no securityholders and no remaining assets, debts, or liabilities as of the date of the application.

7. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs.

8. Applicant intends to file articles of dissolution with the Maryland State Department of Assessment and Taxation following deregistration.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16631 Filed 6–24–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22716; 811–3454]

State Bond Municipal Funds, Inc.; Notice of Application

June 19, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: State Bond Municipal Funds, Inc.

RELEVANT ACT SECTION: Order requested pursuant to section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on February 20, 1997, and amended on May 29, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 14, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant: State Bond Municipal Funds, Inc., 100 North Minnesota Street, P.O. Box 69, New Ulm, Minnesota 56073–0069.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Staff Attorney, at (202) 942–0569, or Elizabeth G. Osterman, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a registered open-end management investment company, organized as a Maryland corporation. SEC records indicate that applicant filed

its notification of registration on Form N–8A under the Act and filed a registration statement on Form N–1A under the Act and under the Securities Act of 1933 on April 23, 1982. SEC records also indicate that on July 6, 1982, applicant's registration statement became effective. Applicant is advised by ARM Capital Advisors, Inc. (''ARM'').

2. On August 16, 1996, applicant's board of directors considered an Agreement and Plan of Reorganization (the ''Reorganization Agreement'') between applicant and Federated Municipal Opportunities Fund, Inc. (the ''Federated Fund''). The Federated Fund is advised by Federated Advisers, a subsidiary of Federated Investors (together, ''Federated''). Pursuant to the Reorganization Agreement, applicant would transfer all of its assets to the Federated Fund in exchange for Class A shares of the Federated Fund. The directors considered several factors and identified certain potential benefits likely to result from the reorganization, including, (a) operating efficiencies as a result of the larger combined size of applicant and the Federated Fund, (b) applicant and the Federated Fund have similar investment objectives, (c) while the expense ratio of the Federated Fund presently is higher than that of the applicant, Federated advised applicant that the expense ratio is lower than the average for municipal bond funds distributed through brokers, (d) expenses of the reorganization will be borne by ARM and/or Federated, (e) the anticipated tax free nature of the reorganization, and (f) the difference in the risks associated with certain of the investment strategies used by the Federated Fund which are not used by applicant. The directors concluded that the reorganization presents no significant risks or costs that would outweigh the benefits discussed above. Applicant's board of directors unanimously approved the reorganization at a meeting of the board on August 26, 1996.

3. On October 4, 1996, Federated Fund filed a registration statement and proxy materials on Form N–14 soliciting approval of the reorganization by applicant's shareholders. The registration statement was declared effective on October 25, 1996. Shareholders approved the reorganization at a special meeting held on December 9, 1996.

4. On December 13, 1996, the date of the reorganization, applicant had 7,388,722.704 shares of common stock outstanding. Applicant's net asset value was $10.82 per share and its aggregate net asset value was $79,930,763.32. Applicant transferred assets valued at $79,930,763.32, and received in exchange 7,648,918.850 Class A shares of the Federated Fund, representing an aggregate net asset value equal to the aggregate net asset value of applicant's transferred shares. Such shares were then distributed to the shareholders of applicant, on that date, in proportion to each shareholder's interest in applicant based on net asset value.

5. All costs involved in the reorganization will be paid by ARM and/or Federated.

6. Applicant has no securityholders and no remaining assets, debts, or liabilities as of the date of the application.

7. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs.

8. Applicant intends to file articles of dissolution with the Maryland State Department of Assessments and Taxation following deregistration.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16629 Filed 6–24–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22720; 811–5412]

State Bond Tax-Free Income Funds, Inc.; Notice of Application

June 19, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: State Bond Tax-Free Income Funds, Inc.

RELEVANT ACT SECTION: Order requested pursuant to section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on February 20, 1997, and amended on May 29, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 14, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant: Stated Bond Tax-Free Income Funds, Inc., 100 North Minnesota Street, P.O. Box 69, New Ulm, Minnesota 56073–0069.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Staff Attorney, at (202) 942–0569, or Elizabeth G. Osterman, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

Applicant is a registered open-end management investment company, organized as a Maryland corporation. SEC records indicate applicant filed its notification of registration on Form N–8A under the Act and filed a registration statement on Form N–1A under the Act and under the Securities Act of 1933 on December 7, 1987. On January 28, 1988, applicant commenced its initial public offering. Applicant is advised by ARM Capital Advisors, Inc. (''ARM'').

2. On August 16, 1996, applicant's board of directors considered an Agreement and Plan of Reorganization (the ''Reorganization Agreement'') between applicant and Federated Municipal Opportunities Fund, Inc. (the ''Federated Fund''). The Federated Fund is advised by Federated Advisers, a subsidiary of Federated Investors (together ''Federated''). Pursuant to the Reorganization Agreement, applicant would transfer all of its net assets to the Federated Fund in exchange for Class A shares of the Federated Fund. The directors considered several factors and identified certain potential benefits likely to result from the reorganization, including, (a) operating efficiencies as a result of the larger combined size of applicant and the Federated Fund, (b) although the Federated Fund, unlike applicant, invests in municipal bonds which are generally not exempt from the Minnesota personal income tax, the tax-

equivalent yield produced by the Federated Fund historically has exceeded the tax-equivalent yield produced by applicant, (c) applicant and the Federated Fund have investment objectives that are similar in many respects, (d) applicant's maximum front end sales charge is the same as that of the Federated Fund, (e) expenses of the reorganization will be borne by ARM and/or Federated, and (f) the anticipated tax free nature of the reorganization. The directors concluded that the reorganization presents no significant risks or costs that would outweigh the benefits discussed above. Applicant's board of directors unanimously approved the reorganization at a meeting of the board on August 26, 1996.

3. On October 15, 1996, Federated Fund filed a registration statement and proxy materials on Form N–14 soliciting approval of the reorganization by applicant's shareholders. The registration statement was declared effective on October 25, 1996. Shareholders approved the reorganization at a special meeting held on December 9, 1996.

4. On December 13, 1996, the date of the reorganization, applicant had 1,733,290.919 shares of common stock outstanding. Applicant's net asset value was $10.59 per share and its aggregate net asset value was $18,351,963.27. Applicant transferred assets valued at $18,351.963.27, and received in exchange 1,756,180.300 Class A shares of the Federated Fund, representing an aggregate net asset value equal to the aggregate net asset value of applicant's transferred shares. Such shares were then distributed to the shareholders of applicant, on that date, in proportion to each shareholder's interest in applicant based on net asset value.

5. All costs involved in the reorganization will be paid by ARM and/or Federated.

6. Applicant has no securityholders and no remaining assets, debts, or liabilities as of the date of the application.

7. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs.

8. Applicant intends to file articles of dissolution with the Maryland State Department of Assessments and Taxation following deregistration.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16633 Filed 6–24–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38743; File No. SR–CBOE–97–23]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Option Series Open for Trading

June 17, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 15, 1997, the Chicago Board Options Exchange, Incorporated (''CBOE'' and ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On June 16, 1997, CBOE amended the filing.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend CBOE Rules 5.4, 5.5, 5.6 and 5.7 governing opening of trading in series of equity options, delisting of option series, terms of option contracts and adjustments.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is: (1) To amend the procedures for opening trading in series of equity options under Rules 5.5 and 5.6 in order to allow the Exchange the same flexibility in adding series as is permitted under other exchanges' rules; (2) to amend Rules 5.5 and 5.6 to provide specifically for near-term options expiration and relieve the Product Development Committee (''PDC'') of its responsibility with respect to opening series of options; and (3) to clarify and reorganize Rules 5.4, 5.5, 5.6 and 5.7.

(1) Conform Rules to Those of Other Exchanges

The Exchange is proposing to combine Rules 5.5 and 5.6 into one rule and to delete certain provisions thereunder. The proposal will provide the Exchange the same flexibility afforded other exchanges by eliminating certain specific provisions which do not appear in other options exchanges' rules. Specifically, the Exchange proposes to delete Interpretations .02 and .03 to Rule 5.5 Currently, Interpretation .02 prevents the Exchange from initially opening for trading series with three strike prices unless the price of the underlying stock is within two percent of a strike price. The proposal would permit the Exchange initially to open three strike prices regardless of how close the underlying stock price is to the initial strike prices. Interpretation .03 restricts the Exchange from adding any new strikes until the underlying stock reaches the existing strike price. The proposal would allow the Exchange to add new series when the Exchange believes that doing so is necessary to maintain an orderly market, to meet customer demand, or to adapt to market movement if the exercise price moves substantially from the initial exercise prices, which would allow the Exchange to add series before the underlying stock reaches an existing strike price.

The Exchange believes the proposal gives the Exchange a more flexible standard than the current CBOE rule and conforms the CBOE rules to those of other exchanges, specifically the

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Stephanie Mullins, Attorney, to Peggy Blake, Division of Market Regulation, Commission (June 16, 1997). In File No. SR–CBOE–97–23, CBOE proposed deleting language in Rule 5.4 that provides the Exchange ''may make application to the SEC'' to delist an options class having no open interest, where the underlying security no longer complies with CBOE maintenance standards. The amendment cancels this proposed deletion.

[3] The text of the proposed rule change is attached as Exhibit A to File No. SR–CBOE–97–23 and is available at the Office of the Secretary, CBOE and at Public Reference Room of the Commission.

Pacific Stock Exchange (''PSE'') Rule 6.4 (a) to (c) and policies thereunder.[4] The Exchange believes the proposal would therefore allow it to compete effectively with other exchanges in multiply-listed options.

The Exchange believes that the current rule, combined with a sustained bull market, has led to the inability to list certain equity option series that are more than nominally out-of-the-money, since even under unusual market conditions under the current rule, a call option can be only a little more than 5% above a security's underlying price when first opened for trading. Although willing to make markets in such options, the Exchange has had to deny retail and institutional customer requests for opening additional option series in certain instances.

The Exchange believes the number of additional series that will result from the proposed rule change, affecting equity options, will not be significant. For this reason, CBOE does not believe that the proposed change raises any systems capacity issues. CBOE indicates it has the ability, subject to prior notice to its membership and customers, to cease trading series that become inactive and have no open interest.[5] Additionally, the Exchange has received a letter from the Options Price Reporting Authority (''OPRA'') indicating that the anticipated additional traffic generated by this proposal is within OPRA's capacity.

(2) Adoption of Near-Term Options Expiration in the Rules

The Exchange proposes to adopt a specific rule providing for near-term expiration of equity option series to make CBOE Rules consistent with the industry standard.[6] The practice of the Exchange regarding near-term options expiration has been consistent with the industry standard since 1989, pursuant to Commission approval; however, current Exchange Rules do not reflect this.[7] By comparison, the NYSE has adopted a rule specifically describing near-term expiration. The CBOE has modeled the near-term expiration portion of the proposed rule after the NYSE's rule.[8] The Exchange also proposes to relieve the PDC of its responsibilities under Rules 5.5 and 5.6 relating to opening option series, as the PDC currently delegates these duties to CBOE staff.

(3) Clarification and Reorganization of the Rules

Current Rules 5.4, 5.5, 5.6 and 5.7, which now contain redundant wording and inconsistencies, are being reorganized so that Exchange staff, members and customers are clear as to which option series are permitted to be opened for trading and under which rules to look for guidance. The Exchange is proposing to organize the rules in a clearer way so that Rule 5.4 only refers to Option Classes, proposed Rule 5.5 only refers to Series of Option Contracts Open for Trading, encompassing current Rules 5.5 and parts of Rules 5.4 and 5.6. Rule 5.6 will be deleted and proposed Rule 5.7 will encompass the remaining portion of current Rule 5.6.

The Exchange believes that by conforming CBOE Rules to those of other Exchanges and to approved industry practices, and by clarifying certain of its rules the proposed rule is consistent with the provisions of Section 6(b)(5) of the Act,[9] in that it will promote just and equitable principles of trade, will protect investors and the public interest, and will remove impediments to and perfect the mechanisms of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–97–23 and should be submitted by July 16, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds CBOE's proposed rule change consistent with the requirements of Section 6 of the Act[10] and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes the proposal is consistent with Section 6(b)(5) of the Act[11] because it will promote just and equitable principles of trade, will protect investors and the public interest, and will remove impediments to and

[4] *See* PSE Rule 6.4, Series of Options Open for Trading, addressed in Securities Exchange Act Release No. 21985 (April 25, 1985), 50 FR 18595 (1985) (order approving File No. SR–PSE–85–9).

[5] CBOE's delisting procedures include the Monthly Series Delisting Program and the Requested Strike Price Delisting Program. The Monthly Delisting Program, performed on the Thursday prior to the week of expiration, selects those option series which are outside of the three strike prices surrounding the underlying value, have no open interest and do not create a break in contiguous series. This process delists approximately 500 option series per month. The Requested Strike Price Delisting Program allows a member firm to request the listing for trading of an option series which is currently unavailable. If in the three business days following listing there is not activity in the requested series, it is delisted. In addition, on an informal basis, CBOE Market Operations staff works with trading crowds to eliminate inactive series that are not captured by the regular delisting parameters. Letter from Patrick J. Fay, Assistant Vice President, Market Operations, CBOE, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation, Commission (May 28, 1997).

[6] Near-term expiration means that the Exchange initially will open series in the two nearest months, regardless of the quarterly cycle on which that class trades, and in the next two expiration months of the quarterly cycle previously designated by the Exchange for that specific class. (For example, if the Exchange listed, in late April, a new stock option on a January-April-July-October quarterly cycle, the Exchange would list the two nearest term months (May and June) and the next two expiration months of the cycle (July and October). When the May series expires, the Exchange would add January series. When the June series expires, the Exchange would add August series as the next nearest month, and would not add April).

[7] *See* Securities Exchange Act Release No. 26934 (June 14, 1989), 54 FR 26283 (June 22, 1989) (order granting permanent approval to the options exchanges regarding the near-term options expiration pilot program).

[8] *See* NYSE Rule 703.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

perfect the mechanisms of a free and open market.[12]

CBOE is proposing to eliminate certain Interpretations from Rule 5.5 that restrict circumstances under which the Exchange may establish strike prices and add new strikes in equity options series open for trading. CBOE proposes to amend its rules so that it may initially open three strike prices regardless of how close the underlying stock price is to the initial strike prices, and to add new series within the Exchange believes that doing so is necessary. The Commission believes that CBOE's proposals to amend to procedures for opening trading in series of equity options will provide additional flexibility in listing new series and strikes and will bring CBOE's policies and procedures in line with those of the other exchanges. The Commission believes that such consistency with the policies and procedures of the other exchanges should enhance CBOE's ability to compete in multiply-listed options.

The Commission believes that CBOE has adequately addressed the affect of the proposal on its existing systems capacity. CBOE and OPRA have carefully reviewed the likely effects of additional listings generated by the proposed rule change. Based on their representations, the Commission understands that the anticipated additional options series listings are within OPRA's capacity. Similarly, under CBOE's current delisting procedures, which include the Monthly Series Delisting Program and the Requested Strike Price Delisting Program, [13] CBOE regularly delists inactive option series. CBOE also works with the trading crowds to eliminate inactive series that are not captured by the regular delisting parameters. The Commission believes that CBOE's current delisting standards will aid in keeping the number of option series to a minimum while providing an optimal range of available strike prices.

The Commission believes that CBOE's proposal to adopt a near-term options expiration rule is appropriate and consistent with the industry standard. CBOE has been following such standards since 1989, and has received no complaints regarding the practice. [14] By adopting a rule modeled after NYSE Rule 703, CBOE is merely clarifying its current method of sequential expiration and ensuring consistency with existing industry standards.

Finally, the Commission believes that the reorganization of Rules 5.4, 5.5, 5.6, and 5.7 is appropriate because such changes will result in clarification to the Exchange, members and customers as to which option series are permitted to be opened for trading and under which rules to refer for guidance.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission believes it is appropriate to approve the proposed rule change on an accelerated basis to allow the Exchange to implement more flexible standards for the listing of strikes and series. Recent significant price movements of certain stocks underlying CBOE-listed options has presented the CBOE with instances where there existed demonstrated customer interest to list additional option strike prices that currently are violative of existing CBOE rules. In a number of these instances, listing of the new strikes has been permitted on competing options exchanges. The Commission believes it is appropriate to address this regulatory disparity without further delay. Good cause for accelerated approval is further supported by the Commission's conclusion that CBOE's proposal mirrors the rules and procedures of other options exchanges governing the opening of trading in series of equity options, and the adoption of a near-term options expiration rule. Accordingly, the proposal does not raise any novel or unique regulatory issues. For these reasons, the Commission believes the proposed rule change is appropriate and consistent with Sections 19(b)(2)(and 6(b)(5) of the Act, and therefore, is approving the proposed rule change on an accelerated basis.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (File No. SR–CBOE–97–23) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. [16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16575 Filed 6–24–97; 8:45 am]

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[12] In approving the proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] *See* supra footnote 5.

[14] On June 14, 1989, the Commission approved, on a permanent basis, a new-term options expiration pilot program proposed by all of the options exchanges. *See* supra note 7.

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38744; File No. SR–NYSE–97–20]

Self-Regulatory Organizations; Notice of Filing and Order Granting Temporary Accelerated Approval of a Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Trading Differentials for Equity Securities

June 18, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 16, 1997, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization (''SRO''). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval on a temporary basis to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Exchange Rules 62, 95.30, 118, 127, and 440B to provide flexibility in determining minimum trading variations. The Exchange is proposing to implement these rule changes on a temporary accelerated basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 62 currently provides fixed minimum trading variations for stocks traded on the Exchange. For example, the rule currently states that ''Bids or offers in stocks above one dollar per share shall not be made at a less variation than ⅛ of one dollar per share.'' In order to provide greater flexibility to adjust trading variations as may be appropriate, the Exchange is proposing to amend Rule 62 so that the minimum trading variation may be changed from time to time.

This increased flexibility would allow the Exchange to determine trading variations on an expedited basis, without undergoing the delays inherent in the regulatory approval process. This would put the Exchange in a comparable regulatory position with respect to minimum trading variations with other exchanges that are able to change variations at any time.

In addition, the amendment to Rule 62 will provide flexibility so that the Exchange could permit its members to trade at increments smaller than NYSE-established trade variations in order to match other markets' bids or offers for the purpose of preventing Intermarket Trading System (''ITS'') trade-throughs. For example, assume that the established minimum trading variation is one-sixteenth of a dollar, and the best bid on the Exchange for a particular stock is 10, but there is a bid for that stock on the ITS at 10⅓₂. The Exchange specialist, or broker in the Crowd with a ''not held'' order, could execute a marketable limit order or market order to sell at 10⅓₂ in order to match the ITS bid. However, the specialist could not accept an order with a limit of 10⅓₂ because it is not the minimum variation at which trading is effected on the Exchange.

The Exchange initially intends to set a minimum variation of one-sixteenth of one dollar.

In addition to Rule 62, several other Exchange rules incorporate specific references to minimum trading variations. These rules, *viz.*, Rule 95.30, Rule 118, Rule 127, and Rule 440B, would be amended to remove references to specific minimum trading variations of one-eighth of one dollar.

The Exchange intends to implement the proposed rule change on a temporary accelerated basis for a 90-day period, during which the Commission will consider the Exchange's request for permanent approval of the proposed rule change.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[2] of the Act in general and furthers the objectives of Section 6(b)(5)[3] in particular in that it is designed to remove impediments to and perfect the mechanism of a free and open market, to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–97–20 and should be submitted by July 16, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6 and Section 11A of the Act.[4]

Recently, there has been a movement within the industry to reduce the minimum trading and quotation increments imposed by the various SROs. Both the American Stock Exchange (''Amex'') and The Nasdaq Stock Market (''Nasdaq'') have recently reduced their minimum increments.[5] In addition, several third market makers have begun quoting securities in increments smaller than the primary markets. The proposed rule change will allow the NYSE the flexibility it needs to address this development and remain competitive with these markets. Nevertheless, the Commission notes that any further change in the minimum increments constitutes (1) a change in a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the NYSE, or (2) a change in an existing order-entry or trading system of an SRO, or (3) both. Therefore, the Exchange is still obligated to file such proposed changes with the Commission.[6]

The Commission also believes the proposed rule change will likely enhance the quality of the market for the affected NYSE-listed securities. The Exchange currently only allows quotes in eighths for equity securities that are above $1.00, sixteenths for equity securities that are below $1.00 but above $0.50, and thirty-seconds in stocks below $0.50.[7] Allowing the NYSE to quote all securities in finer increments will facilitate quote competition.[8] This

[2] 15 U.S.C. 78f(b).

[3] 15 U.S.C. 78f(b)(5).

[4] 15 U.S.C. 78f(b) and 78k–1. In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 3 of the Act. *Id.* section 78c(f).

[5] Securities Exchange Act Release No. 38571 (May 5, 1997) (approving Amex proposal to reduce the minimum trading increment from ⅛ to 1/16 for Amex-listed equity securities priced at or above $10.00); Securities Exchange Act Release No. 38678 (May 27, 1997), 62 FR 30363 (June 6, 1997) (approving a proposed rule change by Nasdaq to reduce the minimum quotation increment from ⅛ to 1/16 for Nasdaq-listed securities whose bid price is equal to or greater than $10.00).

[6] These changes, however, may become effective upon filing if they meet certain statutory requirements. *See* 15 U.S.C. 78s(b)(3)(A)(i) and 17 CFR 240.19b–4(e).

[7] NYSE Rule 62.

[8] The rule change is consistent with the recommendation of the Division of Market Regulation (''Division'') in its Market 2000 Study, in which the Division noted that the ⅛ minimum variation can cause artificially wide spreads and hinder quote competition by preventing offers to buy or sell at prices inside the prevailing quote. *See*

Continued

should help produce more accurate pricing of such securities and can result in tighter quotations.[9] In addition, if the quoted markets are improved by reducing the minimum increment, the change could result in added benefits to the market such as reduced transaction costs.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register.**[10] The proposal provides the NYSE with the ability to quickly modify its trading increment to meet changing market conditions. This will enable the NYSE to quote competitively with other markets. Waiting the full statutory review period for the proposed rule change could place the NYSE at a significant competitive disadvantage to other markets. At the same time, the proposal is effective for only ninety days. This will provide the Commission with a sufficient period to receive and assess comments on the NYSE's proposal before it is adopted on a permanent basis.[11] Therefore, the Commission believes it is consistent with Section 6(b)(5) and Section 19(b)(2) of the Act to grant accelerated approval on a temporary basis to the proposed rule change.[12]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–NYSE–97–20) is hereby approved on an accelerated basis through September 16, 1997.

SEC, Division of Market Regulation, *Market 2000: An Examination of Current Equity Market Developments* 18–19 (Jan. 1994).

[9] A study that analyzed the reduction in the minimum tick size from ⅛ to 1/16 for securities listed on the Amex priced between $1.00 and $5.00 found that, in general, the spreads for those securities decreased significantly while trading activity and market depth were relatively unaffected. *See* Hee-Joon Ahn, Charles Q. Chao, and Hyuk Choe, *Tick Size, Spread, and Volume,* 5 J. Fin. Intermediation 2 (1996).

[10] A prior proposal by another exchange to reduce its minimum fractional change was published for the full statutory comment period without any comments being received by the Commission. Securities Exchange Act Release No. 38571 (May 5, 1997) (approving a proposed rule change by the Amex to reduce the minimum trading differential from ⅛ to 1/16 for equity securities priced at or above $10.00).

[11] The Exchange has submitted a companion filing that requests permanent approval of the procedures described herein. *See* Securities Exchange Act Release No. 34–38745 (June 18, 1997) (publishing notice of File No. SR–NYSE–97–21).

[12] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[13] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16574 Filed 6–24–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38745; File No. SR–NYSE–97–21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Trading Differentials for Equity Securities

June 18, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 16, 1997, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Exchange Rules 62, 95.30, 118, 127 and 440B to provide flexibility in determining minimum trading variations.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[14] 17 C.F.R. 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] This proposal seeks permanent approval of the procedures contained in File No. SR–NYSE–97–20. Securities Exchange Act Release No. 34–38744 (June 18, 1997) (granting temporary accelerated approval).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 62 currently provides fixed minimum trading variations for stocks traded on the Exchange. For example, the rule currently states that ''Bids or offers in stocks above one dollar per share shall not be made at a less variation than ⅛ of one dollar per share.'' In order to provide greater flexibility to adjust trading variations as may be appropriate, the Exchange is proposing to amend Rule 62 so that the minimum trading variation may be changed from time to time.

This increased flexibility would allow the Exchange to determine trading variations on an expedited basis, without undergoing the delays inherent in the regulatory approval process. This would put the Exchange in a comparable regulatory position with respect to minimum trading variations with other exchanges which are able to change variations at any time.

In addition, the amendment to Rule 62 will provide flexibility so that the Exchange could permit its members to trade at increments smaller than NYSE-established trade variations in order to match other markets' bids or offers for the purpose of preventing Intermarket Trading System (''ITS'') trade-throughs. For example, assume that the established minimum trading variation is one-sixteenth of a dollar, and the best bid on the Exchange for a particular stock is 10, but there is a bid for that stock on the ITS AT 10 1/32. The Exchange specialist, or broker in the Crowd with a ''not held'' order, could execute a marketable limit order or market order to sell at 10 1/32 in order to match the ITS bid. However, the specialist could not accept an order with a limit of 10 1/32 since it is not the minimum variation at which trading is effected on the Exchange.

The Exchange intends initially to set a minimum variation of one-sixteenth of one dollar.

In addition to Rule 62, several other Exchange rules incorporate specific references to minimum trading variations. These rules, *viz.*, Rule 95.30, Rule 118, Rule 127, and Rule 440B, would be amended to remove references to specific minimum trading variations of one-eighth of one dollar.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section

6(b)[3] of the Act in general and furthers the objectives of Section 6(b)(5)[4] in particular in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–97–21 and should be submitted by July 16, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16576 Filed 6–24–97; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 17 C.F.R. 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 2558]

United States-Spain Joint Commission on Science and Technology; Public Announcement of a New Science and Technology Program for Competitive Grants To Support International, Collaborative Projects in Science and Technology Between U.S. and Spanish Cooperators

AGENCY: U.S. Department of State.

ACTION: Notice.

EFFECTIVE DATE: June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Frank Finver, Office of Regional Policy Initiatives, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State, 202–736–7375.

SUPPLEMENTARY INFORMATION:

Authority: This program is established under the Agreement for Scientific and Technological Cooperation between the Government of the United States of America and the Government of the Kingdom of Spain.

Project call: A solicitation for this program will begin June 30, 1997. This program will provide grants for collaborative projects submitted by U.S. and Spanish researchers. Projects must help the United States and Spain utilize science and apply technology by providing opportunities to exchange idea, information, skills and techniques, and to collaborate on scientific and technological endeavors of mutual interest and benefit. Proposals considered for funding in calendar year 1998 must be received by the Program Administrators by October 31, 1997. Priority fields for the 1998 proposals are as follows: life sciences, environment, information and communication technology, energy and high energy physics, and materials sciences.

More information and copies of the Program Announcement and Application may be obtained upon request to: Commission for Cultural, Educational and Scientific Exchange between the United States of America and Spain, Paseo Gral. Martinez Campos 24, 28010 Madrid, Spain; telephone (34–1) 308–2436, FAX (34–1) 308–5704; E-mail address: postmaster@comisionfulbrigth.es.

Jonathan A. Margolis,

Acting Director, Office of Regional Policy Initiatives, Bureau of Oceans, International Environmental and Scientific Affairs.

[FR Doc. 97–16598 Filed 6–24–97; 8:45 am]

BILLING CODE 4710–09–M

SUSQUEHANNA RIVER BASIN COMMISSION

Comprehensive Plan

AGENCY: Susquehanna River Basin Commission (SRBC).

ACTION: Notice of public hearing on addition to Comprehensive Plan.

The Susquehanna River Basin Commission will hold a public hearing in conjunction with its regular meeting on July 10, 1997 at the Holiday Inn Arena, 2–6 Hawley Street, Binghamton, NY 13901–3199, beginning at 8:30 a.m. The first hearing will be for the purpose of receiving public comments on the inclusion of the proposed Out-of-Basin Diversion Policy and Protocol in the Commission's *Comprehensive Plan for Management and Development of the Water Resources of the Susquehanna River Basin.*

Under Section 3.10 of the Susquehanna River Basin Compact, Pub. Law 91–575, 84 Stat. 1509 *et seq.*, the Commission must review and approve all diversions of water from the Susquehanna River Basin. Up to this time, the Commission has adopted no formal policy position or statement on how it will evaluate proposed diversions, but has relied on positions articulated in past docket decisions. This policy establishes the principles that the Commission will consider in the approval of diversions and adds a protocol describing how those principles will be applied. Written comments will also be accepted and made a part of the hearing record.

Copies of the entire policy statement and protocol may be obtained upon request to the Commission at 1721 N. Front Street, Harrisburg, Pa. 17102–2391; (717)238–0423. Written comments may be submitted to and further information obtained from Richard A. Cairo, General Counsel.

Dated: June 17, 1997.

Paul O. Swartz,

Executive Director.

[FR Doc. 97–16599 Filed 6–24–97; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements, Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collections of information was published on April 18, 1997 [FR 62, pages 19159–19162].

DATES: Comments must be submitted on or before July 25, 1997.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, U.S. Coast Guard, Office of Information Management, telephone (202) 267–2326.

SUPPLEMENTARY INFORMATION:

United States Coast Guard (USCG)

Title: Plan Approval and Records for Foreign Vessels Carrying Oil in Bulk.

OMB Control Number: 2115–0106.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Affected Public: Owners or operators of foreign vessels carrying oil in bulk.

Abstract: This collection of information requires owners or operators of certain foreign vessels carrying oil in bulk to submit documents to the U.S. Coast Guard to determine if vessels meets certain requirements in 33 CFR 157. This collection mainly affects vessels from countries that are not signatory to the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 relating thereto (MARPOL 73/78).

Need: Under 46 U.S.C. 3703 and 3703(a), the USCG is authorized to issue regulations dealing with design, construction, alteration, repair, maintenance, operation and equipping of foreign vessels which carry or are constructed to carry or adapted to carry vessels which carry or are constructed to carry or adapted to carry oil in bulk. The information will be used to determine if (1) the vessel meets the Double Hull standards in 33 CFR 157.10(d); (2) information is available to vessel personnel to operate the vessel and equipment required and (3) a means is available to appeal U.S. Coast Guard decisions with respect to the regulations and for obtaining those waivers or exemptions permitted by the regulations.

Estimated Annual Burden: 244 hours.

Title: Non Destructive Testing Proposal and Results for Pressure Vessels Cargo Tanks on Unmanned Barges.

OMB Control Number: 2115–0563.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Affected Public: Owners of inspected barges.

Abstract: This collection of information requires owners of unmanned barges with tanks that are required to be nondestructively tested (NDT) to submit a proposal which includes the NDT methods and procedures, and locations of the tanks to be tested. The results must also be submitted to identify any defects and to evaluate the suitability of a tank to remain in service. The Coast Guard requires pressure vessel type tanks that are thirty years old and older to be subjected to NDT at 10 year intervals.

Need: Under 46 U.S.C. 3703, the U.S. Coast Guard is responsible for ensuring safe shipment of liquid dangerous cargoes and has promulgated regulations on board certain barges to ensure that safety standards are met.

Estimated Annual Burden: 39 hours.

Title: Declaration of Inspection.

OMB Control Number: 2115–0506.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Affected Public: Persons in Charge of Transfer Operation.

Abstract: The collection of information requires a person in charge of onshore and offshore facilities to complete a Declaration of Inspection (DOI) for each bulk transfer of oil and hazardous material conducted and to maintain the DOI onboard the vessel and facility for a one month period.

Need: 33 U.S.C. 1221 authorizes the Coast Guard to establish procedure, methods, and equipment requirements to prevent the discharge of oil and hazardous material from vessels and both onshore and offshore.

Estimated Annual Burden: 78,800 hours.

Title: Display of Plans.

OMB Control Number: 2115–0135.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Affected Public: Owners or operators of inspected vessels.

Abstract: This collection of information requires owners or operators of inspected vessels to display certain vessel plans.

Need: Under 46 U.S.C. 3305 and 3306, the U.S. Coast Guard is responsible for ensuring the safety of inspected vessels and has promulgated regulations to ensure that safety standards are met. The information contained on these plans will be used by shipboard personnel during routine duties, such as equipment and system maintenance or servicing, as well as under emergency conditions such as fire or flooding. In the event assistance is rendered from external sources, the plans allow for rapid familiarization with the vessels and its system, the information and its availability is crucial in minimizing danger to those on board, damage to the vessel, and the safety of the port and the environment.

Frequency: On occasion.

Estimated Annual Burden: 450 hours.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 20, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–16673 Filed 6–24–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Training and Qualifications

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss training and qualification issues.

DATES: The meeting will be held on July 8 at 12:00 noon.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Ave., SW, Conference Room 810, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Ms. Regina L. Jones, (202) 267–9822, Office of Rulemaking, (ARM–100) 800 Independence Avenue, SW, Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee (ARAC) to discuss training and qualification issues. This meeting will be held July 8, 1997, at 12:00 noon, at the Federal Aviation Administration. The agenda for this meeting will include the following: The Air Carrier Pilot Pay for Training Working Group will provide a recommendation regarding the Air Carrier Pilot Pay for Training study; ARAC will vote on whether to approve the Air Carrier Pilot Pay for Training Working Group's recommendation.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present statements to the committee at any time. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on June 19, 1997.

Thomas Toula,

Assistant Executive Director for Training and Qualifications, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–16672 Filed 6–24–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 CFR Part 236

Pursuant to Title 49 CFR Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of Title 49 CFR Part 236 as detailed below.

Block Signal Application (BS–AP)–No. 3423

Applicant: CSX Transportation, Incorporated, Mr. R.M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202.

CSX Transportation, Incorporated seeks approval of the proposed discontinuance and removal of the northward absolute signal N2 and the traffic control system, on the No. 1 Main Track, between Rosedale, Kentucky, milepost KC–5.1 and Latonia, Kentucky, milepost KC–4.1, Louisville Division, Cincinnati Terminal Subdivision, and extend Yard Limit operation to the trackage.

The reason given for the proposed changes is to enhance switching operations and increase efficiency.

BS–AP–No. 3424

Applicant: CSX Transportation, Incorporated, Mr. R.M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202.

CSX Transportation, Incorporated seeks approval of the proposed discontinuance and removal of the traffic control system, on the connection track between Sanderson No. 1 and Sanderson No. 2, Memphis Junction, Kentucky, milepost 118.7, Louisville Division, Main Line 3 Subdivision; consisting of the conversion of the power-operated switch at Sanderson No. 2 to hand operation, removal of controlled signals 150RA, 150RB, and 150L, removal of approach signal 1202, and implement Yard Limit operation on the trackage.

The reason given for the proposed changes is to enhance switching operations and increase efficiency.

BS–AP–No. 3425

Applicant: CSX Transportation, Incorporated, Mr. R.M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202.

CSX Transportation, Incorporated seeks approval of the proposed modification of RO Interlocking, milepost CFP–110.1, near Alexandria, Virginia, Baltimore Division, RF&P Subdivision, consisting of the conversion of power-operated switches No.'s 3, 5, and 13 to hand operation equipped with electric locks, and removal of associated controlled signals 2L, 8LB, and 8LC.

The reason given for the proposed changes is to enhance switching operations and increase efficiency.

BS–AP–No. 3426

Applicant: CSX Transportation, Incorporated, Mr. R.M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202.

CSX Transportation, Incorporated seeks approval of the proposed modification of Milford Interlocking, milepost CFP–37.8, Milford, Virginia, Baltimore Division, RF&P Subdivision; consisting of the conversion of the No. 3 power-operated crossover to a hand-operated electrically locked crossover, and removal of associated controlled signals 4L and 4R.

The reason given for the proposed changes is to enhance switching operations and increase efficiency.

BS–AP–No. 3427

Applicant: CSX Transportation, Incorporated, Mr. R. M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202.

CSX Transportation, Incorporated seeks approval of the proposed modification of the traffic control system, on the single main track, at Amqui, Tennessee, milepost H–176.8, on the Henderson Subdivision, Chicago Service Lane, consisting of the discontinuance and removal of northward absolute signal 3R.

The reason given for the proposed changes is that the signal is not needed under present day operation.

BS–AP–No. 3428

Applicant: CSX Transportation, Incorporated, Mr. R. M. Kadlick, Chief

Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202.

CSX Transportation, Incorporated seeks approval of the proposed modification of the traffic control system, on the single main track, between milepost 172 and milepost 225, on the Florence Division, Aberdeen Subdivision, in North Carolina, associated with the installation of electronic coded track circuits, consisting of the following:

1. Conversion of the two power-operated switches, North End of Merry Oaks, to hand operation equipped with electric locks;
2. Conversion of the two power-operated switches, South End of Merry Oaks, to hand operation equipped with electric locks;
3. Conversion of the power-operated switch, milepost 212, south of Cameron, to hand operation; and
4. Discontinuance and removal of 34 controlled signals, associated with the conversion of the above power-operated switches, and the removal of several sidings no longer required.

The reason given for the proposed changes is to eliminate facilities no longer needed in present day operation.

BS–AP–No. 3429

Applicant: Norfolk Southern Railway Company, Mr. C. M. Golias, Chief Engineer S&E Engineering, 99 Spring Street, S.W., Atlanta, Georgia 30303.

Norfolk Southern Railway Company seeks approval of the proposed modification of the traffic control system, on the Kinney Wye connecting track, between control point Kinney, milepost PH–16.5, Virginia Division, Blue Ridge District and control point Montview, milepost 174.6, Piedmont Division, Lynchburg-Salisbury-Southward District, near Lynchburg, Virginia, consisting of the discontinuance and removal of the switch point protection on the hand-operated switches, and modifications to provide for a restricting aspect for train movements through the OS onto the connecting track at the 4R, 21R, and 25R signals.

The reason given for the proposed changes is to reduce maintenance costs without affecting safety.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, S.W., Washington, D. C. 20590 within 45 calendar days of the date of issuance of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on June 3, 1997.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 97–16664 Filed 6–24–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (97–3)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, DOT.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved a third quarter 1997 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter 1997 RCAF (Unadjusted) is 1.112. The third quarter 1997 RCAF (Adjusted) is 0.752. The third quarter 1997 RCAF–5 is 0.734.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1549. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision write to, call, or pick up in person from: DC NEWS & DATA, INC., Suite 210, 1925 K Street, NW, Washington, DC 20423, telephone (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: June 18, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–16638 Filed 6–24–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Executive Office for Asset Forfeiture; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Executive Office for Asset Forfeiture within the Department of the Treasury is soliciting comments concerning the ''Request for Transfer of Property Seized/Forfeited by a Treasury Agency'', TD F 92–22.46.

DATES: Written comments should be received on or before August 20, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to the Executive Office for Asset Forfeiture, Attn: Ms. Rebecca Brown, Suite 700, 740–15th Street, Washington, D.C. 20220. Telephone: (202) 622–2807.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Executive Office for Asset Forfeiture, Attn: Ms. Rebecca Brown, Suite 700, 740–15th Street, Washington, D.C. 20220. Telephone: (202) 622–2807.

Title: Request for Transfer of Property Seized/Forfeited by a Treasury Agency, TD F 92–22.46.

OMB Number: 1505–0152.

Form Number: TD F 92–22.46.

Abstract: The form was developed to capture the minimum amount of data necessary to process the application for equitable sharing benefits. Only one form is required per seizure. If a law enforcement agency does not make this one time application for benefits under the equitable sharing process, the agency will not benefit from the forfeiture process.

Current Action: This is a notice for the continued use of the established form.

There are no changes to the existing form.

Type of Review: Extension of form utilization.

Affected Public: Federal, state and local law enforcement agencies participating in the Treasury asset sharing program.

Estimated Number of Respondents: 600.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1300 hours.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval.

All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 18, 1997.

Jan P. Blanton,

Director, Executive Office for Asset Forfeiture.

[FR Doc. 97–16591 Filed 6–24–97; 8:45 am]

BILLING CODE 4810–25–M

Corrections

Federal Register
Vol. 62, No. 122
Wednesday, June 25, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 950609150–7080–03]

RIN 0648–AI06

Jade Collection in the Monterey Bay National Marine Sanctuary

Correction

In proposed rule document 97–14787 beginning on page 32246, in the issue of Friday, June 13, 1997, make the following correction:

On page 32247, in the first column, in the fourth full paragraph, in the fifth line ''53'' should read ''55''.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51859; FRL–5588–4]

Certain Chemicals; Premanufacture Notices

Correction

In notice document 97–10895, beginning on page 23096, in the issue of Monday, April 28, 1997, make the following corrections:

1. The docket line should read as set forth above.

2. On page 23100, the date and signature lines at the end of the table should read as follows:

Dated: April 11, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38724; File No. SR-Amex-97-17]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the American Stock Exchange, Inc. Relating to Telemarketing Practices by Members and Member Organizations

Correction

In notice document 97–15464 beginning on page 32390 in the issue of Friday, June 13, 1997, make the following correction:

On page 32393, in the second column, the authorizing signature should read:

Margaret H. McFarland,

Deputy Secretary.

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 0580-AA52

Fees for Official Inspection and Official Weighing Services

Correction

In rule document 97–15267 beginning on page 31701 in the issue of Wednesday, June 11, 1997, make the following correction:

§ 800.71 [Corrected]

On page 31702 under § 800.71 (a), in Schedule A, Table 1, the table should read as set forth below:

(a) * * *

Schedule A.—Fees for Official Inspection and Weighing Services Performed in the United States

TABLE 1.—FEES FOR OFFICIAL SERVICES PERFORMED AT AN APPLICANT'S FACILITY IN AN ONSITE FGIS LABORATORY [1]

	Monday to Friday (6 a.m to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and Over-time [2]	Holidays
(1) Inspection and Weighing Services Hourly Rates (per service representative)				
1-year contract	$23.80	$25.60	$33.40	$40.20
6-month contract	25.80	27.60	35.40	46.20
3-month contract	29.60	30.80	38.60	48.00
Noncontract	34.00	36.00	44.20	54.20

(2) Additional Tests (cost per test, assessed in addition to the hourly rate) [3]	
(i) Aflatoxin (other than Thin Layer Chromatography)	$8.50
(ii) Aflatoxin (Thin Layer Chromatography method)	20.00
(iii) Soybean protein and oil (one or both)	1.50
(iv) Wheat protein (per test)	1.50
(v) Sunflower oil (per test)	1.50

(vi) Vomitoxin (qualitative)	7.50
(vii) Vomitoxin (quantitative)	12.50
(viii) Waxy corn (per test)	1.50
(ix) Fees for other tests not listed above will be based on the lowest noncontract hourly rate	.....
(x) Other services	.....
(a) Class Y Weighing (per carrier)	.....
(1) Truck/container	.30
(2) Railcar	1.25
(3) Barge	2.50

(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier).

(i) All outbound carriers (per-metric-ton) [4]	
(a) 1–1,000,000	$ 0.090
(b) 1,000,001-1,500,000	0.082
(c) 1,500,001—2,000,000	0.042
(d) 2,000,001—5,000,000	0.032
(e) 5,000,001—7,000,000	0.017
(f) 7,000,001—	0.002
(ii) Additional services (assessed in addition to all other fees) [3]	
(a) Submitted sample (per sample—grade and factor)	1.50
(b) Submitted sample—Factor only (per factor)	0.70

[1] Fees apply for original inspection and weighing, reinspection, and appeal inspection service include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in § 800.72 (a).

[2] Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.

[3] Appeal and reinspection services will be assessed the same fee as the original inspection service.

[4] The administrative fee is assessed on an accumulated basis beginning at the start of the Service's fiscal year (October 1 each year).

BILLING CODE 1505-01-D

Federal Register

Wednesday
June 25, 1997

Part II

Department of Transportation

Research and Special Programs Administration

Actions on Exemption Applications; Notice

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Actions on Exemption Applications

AGENCY: Research and Special Programs Administration, Transportation.

ACTION: Notice of actions on Exemption Applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the actions on exemption applications in July–December 1996. The modes of transportation involved are identified by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor Vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Issued in Washington, DC, on June 12, 1997.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

MODIFICATION AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3004–P	DOT–E 3004	Lockheed Martin Aeronautical Systems, Marietta, GA.	49 CFR 173.302, 175.3	To become a party to exemption 3004 (mode 1, 2).
3142–P	DOT–E 3142	Sandia National Laboratories, Albuquerque, NM.	49 CFR 173.24(a)(1)	To become a party to exemption 3142 (modes 1, 2).
3142–P	DOT–E 3142	Los Alamos National Laboratory, Los Alamos, NM.	49 CFR 173.24(a)(1)	To become a party to exemption 3142 (modes 1, 2).
3142–P	DOT–E 3142	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 173.24(a)(1)	To become a party to exemption 3142 (modes 1, 2).
3142–P	DOT–E 3142	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 173.24(a)(1)	To become a party to exemption 3142 (modes 1, 2).
3216–P	DOT–E 3216	Solvay Fluorides, Inc., Greenwich, CT.	49 CFR 173.314(c)	To become a party to exemption 3216 (modes 1, 3).
3549–P	DOT–E 3549	Mason & Hanger Corporation, Amarillo, TX.	49 CFR 172.101, 173.54, 173.56, 173.62.	To become a party to exemption 3549 (modes 1, 2).
3549–P	DOT–E 3549	EG&G Mound Applied Technologies, Miamisburg, OH.	49 CFR 172.101, 173.54, 173.56, 173.62.	To become a party to exemption 3549 (modes 1, 2).
3549–P	DOT–E 3549	Sandia National Laboratories, Albuquerque, NM.	49 CFR 172.101, 173.54, 173.56, 173.62.	To become a party to exemption 3549 (modes 1, 2).
3549–P	DOT–E 3549	Los Alamos National Laboratory, Los Alamos, NM.	49 CFR 172.101, 173.54, 173.56, 173.62.	To become a party to exemption 3549 (modes 1, 2).
3549–P	DOT–E 3549	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 172.101, 173.54, 173.56, 173.62.	To become a party to exemption 3549 (modes 1, 2).
3549–P	DOT–E 3549	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 172.101, 173.54, 173.56, 173.62.	To become a party to exemption 3549 (modes 1, 2).
3549–P	DOT–E 3549	Lawrence Livermore National Laboratory, Livermore, CA.	49 CFR 172.101, 173.54, 173.56, 173.62.	To become a party to exemption 3549 (modes 1, 2).
4453–P	DOT–E–4453 ...	S.A.S. Contracting Corporation, Chesterhill, OH.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).
4453–P	DOT–E–4453 ...	Golden State Explosives Plymouth, CA.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).
4453–X	DOT–E–4453 ...	W.H. Burt Explosives, Inc., Moab, UT.	40 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	Authoriezes the use of a non-DOT specification bulk, hopper-type tank for transportation of Division 1.5 or ammonium nitrate-fuel oil mixtures (modes 1, 2, 3).
4453–P	DOT–E–4453 ...	American West Explosives, Inc., Plymouth, CA.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).
4588–P	DOT–E–4588 ...	Mason & Hanger Corporation, Amarillo, TX.	49 CFR 173.65(a)	To become a party to exemption 4588 (mode 1).
4588–P	DOT–E–4588 ...	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 173.65(a)	To become a party to exemption 4588 (mode 1).
4588–P	DOT–E–4588 ...	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 173.65(a)	To become a party to exemption 4588 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
4588–P	DOT–E–4588 ...	Lawrence Livermore National Laboratory, Livermore, CA.	49 CFR 173.65(a)	To become a party to exemption 4588 (mode 1).
4726–X	DOT–E–4726 ...	U.S. Department of Energy, Washington, DC.	49 CFR 173.304, 173.338	Authorizes the transport of certain liquid metal fluorides in non-DOT specification monel cylinders, overpacked in a strong wooden box with cushioning material (mode 1).
4884–P	DOT–E–4884 ...	IWECO, Inc., Houston, TX	49 CFR 173.201, 173.202, 173.302, 173.304, 173.323, 175.3, 178.61.	To become a party to exemption 4884 (modes 1, 2, 3, 4).
5022–P	DOT–E–5022 ...	Sandia National Laboratories, Albuquerque, NM.	49 CFR 174.101(L), 174.104(d), 174.112(a), 177.834(1)(1).	To become a party to exemption 5022 (modes 1, 2).
5022–P	DOT–E–5022 ...	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 174.101(L), 174.104(d), 174.112(a), 177.834(1)(1).	To become a party to exemption 5022 (modes 1, 2).
5022–P	DOT–E 5022	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 174.101 (L), 174.104(d), 174.112(a), 177.834(1)(1).	To become a party to exemption 5022 (modes 1, 2).
5704–P	DOT–E 5704	Tri-State Motor Transit, Inc., Joplin, MO.	49 CFR 173.62, Packing Method E–103.	To become a party to exemption 5704 (modes 1, 2, 3).
5948–P	DOT–E 5948	Lockheed Martin Idaho Technologies Company, Idaho Falls, ID.	49 CFR 173.416, 173.417(b), 173.467.	To become a party to exemption 5948 (mode 2).
5948–P	DOT–E 5948	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 173.416, 173.417(b), 173.467.	To become a party to exemption 5948 (mode 2).
5948–P	DOT–E 5948	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 173.416, 173.417(b), 173.467.	To become a party to exemption 5948 (mode 2).
5948–P	DOT–E 5948	DynCorp of Colorado, Inc., Golden, CO.	49 CFR 173.416, 173.417(b), 173.467.	To become a party to exemption 5948 (mode 2).
6325–P	DOT–E 6325	Energetic Solutions, Inc. Dallas, TX.	49 CFR 173.154(a)	To become a party to exemption 6325 (mode 1).
6530–P	DOT–E 6530	Airgas, Inc., Cheyenne, WY.	49 CFR 173.302(c)	To become a party to exemption 6530 (modes 1, 2).
6658–P	DOT–E 6658	Mason & Hanger Corporation, Amarillo, TX.	49 CFR 173.62	To become a party to exemption 6658 (mode 1).
6658–P	DOT–E 6658	Sandia National Laboratories, Albuquerque, NM.	49 CFR 173.62	To become a party to exemption 6658 (mode 1).
6658–P	DOT–E 6658	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 173.62	To become a party to exemption 6658 (mode 1).
6658–P	DOT–E 6658	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 173.62	To become a party to exemption 6658 (mode 1).
6691–P	DOT–E 6691	Central McGowan, Inc., St. Cloud, MN.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B(2).	To become a party to exemption 6691 (modes 1, 2, 3, 4).
6691–P	DOT–E 6691	Medical-Technical Gases, Inc,. Medford, MA.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B(2).	To become a party to exemption 6691 (modes 1, 2, 3, 4).
6922–P	DOT–E 6922	Halocarbon Products Corp., N. Augusta, SC.	49 CFR 173.314(c), 179.300–15.	Authorizes the use of a DOT Specification 106A500–X multi-unit tank car tank, for shipment of certain compressed gases (modes 1, 2, 3).
6922–P	DOT–E 6922	Solvay Fluorides, Inc., Greenwich, CT.	49 CFR 173.314(c), 179.300–15.	To become a party to exemption 6922 (modes 1, 2, 3).
6929–P	DOT–E 6929	Sandia National Laboratories, Albuquerque, NM.	49 CFR 172.101, 173.54(1), 173.62(c).	To become a party to exemption 6929 (modes 1, 3).
6962–P	DOT–E 6962	Sandia National Laboratories, Albuquerque, NM.	49 CFR 173.301(d)	To become a party to exemption 6962 (modes 1, 2).
6962–P	DOT–E 6962	Los Alamos National Laboratory, Los Alamos, NM.	49 CFR 173.301(d)	To become a party to exemption 6962 (modes 1, 2).
6962–P	DOT–E 6962	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 173.301(d)	To become a party to exemption 6962 (modes 1, 2).
6962–P	DOT–E 6962	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 173.301(d)	To become a party to exemption 6962 (modes 1, 2).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6971–P	DOT–E 6971	Restek Corporation, Bellefonte, PA.	49 CFR Parts 100–199	To become a party to exemption 6971 (modes 1, 2, 3, 4, 5).
7835–P	DOT–E 7835	Alameda Chemical, Nampa/Boise, ID.	49 CFR 177.848(d)	To become a party to exemption 7835 (mode 1).
7835–P	DOT–E 7835	Alameda Chemical, Phoenix, AZ.	49 CFR 177.848(d)	To become a party to exemption 7835 (mode 1).
7835–P	DOT–E 7835	Alameda Chemical, Oakland, CA.	49 CFR 177.848(d)	To become a party to exemption 7835 (mode 1).
7835–P	DOT–E 7835	Alameda Chemical, Camarillo, CA.	49 CFR 177.848(d)	To become a party to exemption 7835 (mode 1).
7835–P	DOT–E 7835	Alameda Chemical, Sacramento, CA.	49 CFR 177.848(d)	To become a party to exemption 7835 (mode 1).
7835–X	DOT–E 7835	Scott Specialty Gases, Inc., Plumsteadville, PA.	49 CFR 177.848(d)	Authorizes the transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle (mode 1).
7835–X	DOT–E 7835	Oxygen Service Company, Orange, CA.	49 CFR 177.848(d)	Authorizes the transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle (mode 1).
7835–P	DOT–E 7835	Mountain Electronic Gases, Colorado Springs, CO.	49 CFR 177.848(d)	To become a party to exemption 7835 (mode 1).
8009–P	DOT–E 8009	County Sanitation Districts of Los Angeles, County Whittier, CA.	49 CFR 173.301(d)(2), 173.302(a)(3), 178.37–5.	To become a party to exemption 8009 (mode 1).
8009–X	DOT–E 8009	Gas Trans, Austin, TX	49 CFR 173.301(d)(2), 173.302(a)(3), 178.37–5.	Authorizes the use of DOT Specification 3AAX cylinders made of 4130X steel for transportation of a compressed natural gas (mode 1).
8307–P	DOT–E 8307	Sandia National Laboratories, Albuquerque, NM.	49 CFR 173.21, 173.247, 173.25(b), 175.3.	To become a party to exemption 8307 (modes 1, 2, 3, 4).
8307–P	DOT–E 8307	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 173.21, 173.247, 173.25(b), 175.3.	To become a party to exemption 8307 (modes 1, 2, 3, 4).
8307–P	DOT–E 8307	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 173.21, 173.247, 173.25(b), 175.3.	To become a party to exemption 8307 (modes 1, 2, 3, 4).
8451–P	DOT–E 8451	TPL, Inc. (Laboratory/ Technical Annex), Albuquerque, NM.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	TPL, Inc. (Financial/Technical Annex), Albuquerque, NM.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	TPL, Inc. (Corporate/Technical Annex), Albuquerque, NM.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	TPL, Inc. (Ft. Wingate Army Depot), Ft. Wingate, NM.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Day & Zimmermann, Inc., Parsons, KS.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	EG&G Mound Applied Tecnologies, Miamisburg, OH.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Mason & Hanger Corporation, Amarillo, TX.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Lawrence Livermore National Laboratory, Livermore, CA.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Radian International LLC, Austin, TX.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	General Electric Aircraft Engines, Cincinnati, OH.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8451–P	DOT–E 8451	Lockheed Martin Vought Systems Corporation, Dallas TX.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Cambridge Isotope Laboratories, Andover, MA.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Sandia National Laboratories, Albuquerque, NM.	49 CFR 173.3, 173.52 173.54, 173.60, 174.3, 175.3177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Lockheed Martin Idaho Technologies Company, Idaho Falls, ID.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	ICI Explosives Environmental Company, Valley Forge, PA.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Cartridge Actuated Devices, Inc., Byram, NJ.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Hughes Defense Communications, Fort Wayne, IN.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Tri-State Motor Transit, Inc., Joplin, MO.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Los Alamos National Laboratory, Los Alamos, NM.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	MacKenzie Corporation, Bush, LA.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Mason & Hanger Corporation, Middletown, IA.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Dayron, Orlando, FL	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	DynCorp of Colorado, Inc., Golden, CO.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Westinghouse Savannah River Company, Aiken, SC.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	PyroLabs, Inc., Whitewater, CO.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8453–P	DOT–E 8453	Dyna-Blast, Inc., Nortonville, KY.	49 CFR 173.114a	To become a party to exemption 8453 (modes 1, 3).
8554–P	DOT–E 8554	Golden State Explosives, Plymouth, CA.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (modes 1, 3).
8554–P	DOT–E 8554	American West Explosives, Inc., Plymouth, CA.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (modes 1, 3).
8554–P	DOT–E 8554	Cook Slurry Company, Gilbert, MN.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (modes 1, 3).
8710–P	DOT–E 8710	Akzp Nobel, Chicago, IL ..	49 CFR 173.119, 173.21, 173.221.	Authorizes the shipment of an organic peroxide classed as a flammable liquid in a DOT Specification MC–307/312 cargo tank equipped with temperature and pressure sensing devices (mode 1).
8723–P	DOT–E 8723	ETI Export, Inc., Wilmington, DE.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (modes 1, 2).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8723–P	DOT–E 8723	ETI Explosives Technologies International, Inc., Wilmington, DE.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (modes 1, 2).
8723–P	DOT–E 8723	Transamerica Leasing, Inc., Houston, TX.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (modes 1, 2).
8723–P	DOT–E 8723	Nelson Brothers, Incorporated, Parrish, AL.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (modes 1, 2).
8723–P	DOT–E 8723	Eurotainer SA Montigny Le Bretonneux, France.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (modes 1, 2).
8723–X	DOT–E 8723	ICI Explosives USA, Inc., Dallas, TX.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	Authorizes the use of non-DOT specification motor vehicles for bulk shipment of certain blasting agents (modes 1, 2).
8723–X	DOT–E 8723	ECONEX, Inc, Pittsfield, IL	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	Authorizes the use of non-DOT specification motor vehicles for bulk shipment of certain blasting agents (modes 1, 2).
8723–X	DOT–E 8723	Senex Explosives, Inc., Cuddy, PA.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	Authorizes the use of non-DOT specification motor vehicles for bulk shipment of certain blasting agents (modes 1, 2).
8723–X	DOT–E 8723	Austin Powder Co., Cleveland, OH.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	Authorizes the use of non-DOT specification motor vehicles for bulk shipment of certain blasting agents (modes 1, 2).
8723–P	DOT–E 8723	American West Explosives, Inc., Plymouth, CA.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (modes 1, 2).
8723–P	DOT–E 8723	Mining Services International, Salt Lake City, UT.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (modes 1, 2).
8723–P	DOT–E 8723	Taylor Minster Leasing Inc., Houston, TX.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	Authorizes the use of non-DOT specification motor vehicles for bulk shipment of certain blasting agents (modes 1, 2).
8723–P	DOT–E 8723	Tri-State Motor Transit Co., Joplin, MO.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (modes 1, 2).
8749–P	DOT–E 8748	Los Alamos National Laboratory, Los Alamos, NM.	49 CFR 172.101, 173.302, 175.3.	To become a party to exemption 8748 (modes 1, 2, 3, 4).
8958–P	DOT–E 8958	Alpha-Ireco, Inc., Lincoln, CA.	49 CFR 172.101	To become a party to exemption 8958 (modes 1, 2, 3).
9184–P	DOT–E 9184	Elkem American Carbide Company, Ashtabula, OH.	48 CFR 173.178	To become a party to exemption 9184 (modes 1, 2).
9184–P	DOT–E 9184	Midwest Carbide, Pryor, OK.	49 CFR 173.178	To become a party to exemption 9184 (modes 1, 2).
9248–P	DOT–E 9248	Reaction Products, Los Angeles, CA.	49 CFR 173.156, 173.184	To become a party to exemption 9248 (modes 1, 2).
9275–P	DOT–E 9275	Gryphon Development, New York, NY.	49 CFR Parts 100–199	To become a party to exemption 9275 (modes 1, 2, 3).
9275–P	DOT–E 9275	Guerlain, Inc., Piscataway, NJ.	49 CFR Parts 101–199	To become a party to exemption 9275 (modes 1, 2, 3).
9275–P	DOT–E 9275	The Body Shop, Wake Forest, NC.	49 CFR Parts 100–199	To become a party to exemption 9275 (modes 1, 2, 3).
9571–P	DOT–E 9571	United States Pollution Conrtol, Inc., Colubia, SC.	49 CFR Parts 100–177	To become a party to exemption 9571 (modes 1, 2, 3, 4, 5).
9571–P	DOT–9571	Municipal Services Corporation, Columbia, SC.	49 CFR Parts 100–177	To become a party to exemption 9571 (modes 1, 2, 3, 4, 5).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9571–P	DOT–E 9571	Solvent Services Company, Columbia SC.	49 CFR Parts 100–177	To become a party to exemption 9571 (modes 1, 2, 3, 4, 5).
9617–P	DOT–E 9617	Golden State Explosives, Plymouth, CA.	49 CFR 176.83(a), 177.835(g), 177.848(f), Part 107, Appendix B(1).	To become a party to exemption 9617 (modes 1, 3).
9623–P	DOT–E 9623	Golden State Explosives, Plymouth, CA.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (mode 1).
9623–P	DOT–E 9623	American West Explosives, Inc., Plymouth, CA.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (mode 1).
9623–P	DOT–E 9623	Energetic Solutions, Inc., Dallas, TX.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (mode 1).
9689–P	DOT–E 9689	ICI Americas, Inc., Wilmington, DE.	49 CFR 172.203(a), 176.76(a)(4), Part 107, Appendix B (1) and (2).	To become a party to exemption 9689 (mode 3).
9696–X	DOT–E 9696	Fluoroware, Inc., Chaska, MN.	49 CFR 173.158, Part 173, Subpart E.	Authorizes the manufacture, marking and sale of non-DOT rotationally molded Teflon PFA container of 100 liter capacity with filament-wound fiberglass reinforcement and a high density polyethylene overpack for shipment of those liquids authorized in DOT–34 and DOT–6D/2S or 2SL composite packagings (modes 1, 2).
9723–P	DOT–E 9723	Solvent Services Company, Columbia, SC.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Municipal Services Corporation, Columbia, SC.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Midwest Transport, Inc., Menomonee Falls, WI.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	American Ecology Transportation, Pasadena, TX.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Cactus Vacuum Truck Service, Inc., Grand Prairie, TX.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Bealine Service Company, Inc., Pasadena, TX.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Safeway Chemical Transportation, Inc., Wilmington, DE.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	McCutcheon Enterprises, Inc., Apollo, PA.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9741–P	DOT–E 9741	International Trade Partners, Inc., Medley, FL.	49 CFR 173.260(a)(3)	To become a party to exemption 9741 (modes 1, 2, 3).
9741–P	DOT–E 9741	Lockheed Martin Idaho Technologies Company, Idaho Falls, ID.	49 CFR 173.260(a)(3)	To become a party to exemption 9741 (modes 1, 2, 3).
9769–P	DOT–E 9769	Envirotech Systems, Inc., Seattle, WA.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Rinchem Company, Inc., Albuquerque, NM.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	American Ecology Transportation, Pasadena, TX.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Tri-State Motor Transit, Inc., Joplin, MO.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Cactus Vacuum Truck Service, Inc., Grand Prairie, TX.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Bealine Service Company, Inc., Pasadena, TX.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–X	DOT–E 9769	Franklin Environmental Services, Inc., Wrentham, MA.	49 CFR 173.12, 174.81, 176.83, 177.848.	Authorizes the multi-modal transportation of labpacks with partial relief from segregation requirements (modes 1, 2, 3).
9769–X	DOT–E 9769	Safety-Kleen Envirosystems Company of P.R. Inc., Manati, PR.	49 CFR 173.12, 174.81, 176.83, 177.848.	Authorizes the multi-modal transportation of labpacks with partial relief from segregation requirements (modes 1, 2, 3).
9769–X	DOT–E 9769	Clean Harbors Environmental Services, Inc., Quincy, MA.	49 CFR 173.12, 174.81, 176.83, 177.848.	Authorizes the multi-modal transportation of labpacks with partial relief from segregation requirements (modes 1, 2, 3).
9769–X	DOT–E 9769	ENSCO, Inc. d/b/a Division Transport, Eldorado, AR.	49 CFR 173.12, 174.81, 176.83, 177.848.	Authorizes the multi-modal transportation of labpacks with partial relief from segregation requirements (modes 1, 2, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9769–P	DOT–E 9769	M P Environmental Services, Inc., Bakersfield, CA.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Safeway Chemical Transportation, Inc., Wilmington, DE.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Eldredge, Inc., West Chester, PA.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Tri-S, Inc., Ellington, CT ...	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Allwaste Environmental Services, Inc., San Martin, CA.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9778–P	DOT–E 9778	Western Atlas International, Houston, TX.	49 CFR 173.304, 173.306	Authorizes the shipment of sulfur hexafluoride, classed as nonflammable gas, in non-DOT specification tanks and tubes, used in oil well logging service (modes 1, 3, 4, 5).
9781–P	DOT–E 9781	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 173.304(a)(2), 173.34 (d), (e).	To become a party to exemption 9781 (modes 1, 2).
9781–P	DOT–E 9781	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 173.304(a)(2), 173.34 (d), (e).	To become a party to exemption 9781 (modes 1, 2).
9791–X	DOT–E 9791	Pressed Steel Tank Company, Inc., Milwaukee, WI.	49 CFR 173.301(h), 173.302(a), 173.34(a)(1), 178.37.	Authorizes the manufacture, marking, and sale of a high strength, non-specification cylinder conforming in part with the DOT–3AA specification for transportation of certain nonflammable, nonliquefied compressed gases (mode 1).
9926–X	DOT–E 9926	Implementos Agricolas LaLa, S.A., S.A. Durango, ME.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(a)(2), 175.3, 178.65–2, 178.65–5.	Authorizes the manufacture, marking, and sale of nonrefillable, non-DOT specification cylinders designed and manufactured in accordance with DOT–39 specification except for material of construction (modes 1, 2, 3, 4).
9926–X	DOT–E 9926	Implementos Agricolas, Gomez Palacio, DGO, MX.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(a)(2), 175.3, 178.65–2, 178.65–5.	Authorizes the manufacture, marking, and sale of nonrefillable, non-DOT specification cylinders designed and manufactured in accordance with DOT–39 specification except for material of construction (modes 1, 2, 3, 4).
10001–P	DOT–E 10001 ..	Weldstar Company, Aurora, IL.	49 CFR 173.316, 173.320	To become a party to exemption 10001 (mode 1).
10048–P	DOT–E 10048 ..	Epichem, Inc., Allentown, PA.	49 CFR 173.119, 173.134, 173.154, 173.28(m).	To become a party to exemption 10048 (modes 1, 3).
10049–P	DOT–E 10049 ..	Enderby Gas, Inc., Gainesville, TX.	49 CFR 173.318, 173.320, 173.338, 177.840.	To become a party to exemption 10049 (mode 1).
10101–P	DOT–E 10101 ..	Airgas, Inc., Cheyenne, WY.	49 CFR 173.301(c), 173.34(e)(15).	To become a party to exemption 10101 (mode 1).
10239–P	DOT–E 10239 ..	Allied Signal Inc., Morristown, NJ.	49 CFR 173.263, 179.200–18(b).	Authorizes the transportation of hydrochloric acid in DOT 111A100W5 tank car tanks equipped with a surge baffle in the safety vent assembly (mode 2).
10291–P	DOT–E 10291 ..	Eurotainer SA, Paris, France.	49 CFR 173.315, 178.245	To become a party to exemption 10291 (modes 1, 2, 3).
10298–P	DOT–E 10298 ..	SouthCentral Air, Inc., Kenai, AK.	49 CFR 172.101, column (6)(b), 173.119, 175.320.	To become a party to exemption 10298 (mode 4).
10298–P	DOT–E 10298 ..	Hondu Carib Cargo, Inc., Fairbanks, AK.	49 CFR 172.101, column (6)(b), 173.119, 175.320.	To become a party to exemption 10298 (mode 4).
10300–P	DOT–E 10300 ..	Sandia National Laboratories, Albuquerque, NM.	49 CFR 173.305	To become a party to exemption 10300 (mode 1).
10300–P	DOT–E 10300 ..	Lockheed Martin Energy Systems, Inc. Oak Ridge, TN.	49 CFR 173.305	To become a party to exemption 10300 (mode 1).
10300–P	DOT–E 10300 ..	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 173.305	To become a party to exemption 10300 (mode 1).
10300–P	DOT–E 10300 ..	Allied Signal, Inc., Morristown, NJ.	49 CFR 173.305	To become a party to exemption 10300 (mode 1).
10307–P	DOT–E 10307 ..	Elf Atochem North America, Inc., Philadelphia, PA.	49 CFR 179.200–18(b)(2)(iii), 179.201–1, 179.201–7.	To become a party to exemption 10307 (mode 2).
10307–P	DOT–E 10307 ..	Elf Atochem North America, Inc., Granger, WY.	49 CFR 179.200–18(b)(2)(iii), 179.201–1, 179.201–7.	To become a party to exemption 10307 (mode 2).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10365–P	DOT–E 10365 ..	Sandia National Laboratories, Albuquerque, NM.	49 CFR 178.121–1(b)	To become a party to exemption 10365 (modes 1, 2, 3).
10365–P	DOT–E 10365 ..	Lockheed Martin Utility Services (LMUS), Bethesda, MD.	49 CFR 178.121–1(b)	To become a party to exemption 10365 (modes 1, 2, 3).
10441–P	DOT–E 10441 ..	Solvent Services Company, Columbia, SC.	49 CFR 173.12(b)(6), 177.848(b).	To become a party to exemption 10441 (mode 1).
10441–P	DOT–E 10441 ..	Municipal Services Corporation, Columbia, SC.	49 CFR 173.12(b)(6), 177.848(b).	To become a party to exemption 10441 (mode 1).
10441–P	DOT–E 10441 ..	Chemical Analytics, Inc., Romulus, MI.	49 CFR 173.12(b)(6), 177.848(b).	To become a party to exemption 10441 (mode 1).
10441–P	DOT–E 10441 ..	Triumvirate Environmental, Inc., Somerville, MA.	49 CFR 173.12(b)(6), 177.848(b).	To become a party to exemption 10441 (mode 1).
10536–P	DOT–E 10536 ..	EG&G Mound Applied Technologies, Miamisburg, OH.	49 CFR 173.86	To become a party to exemption 10536 (modes 1, 2, 3, 4).
10536–P	DOT–E 10536 ..	Mason & Hanger Corporation, Amarillo, TX.	49 CFR 173.86	To become a party to exemption 10536 (modes 1, 2, 3, 4).
10536–P	DOT–E 10536 ..	EG&G Star City, Miamisburg, OH.	49 CFR 173.86	To become a party to exemption 10536 (modes 1, 2, 3, 4).
10536–P	DOT–E 10536 ..	Sandia National Laboratories, Albuquerque, NM.	49 CFR 173.86	To become a party to exemption 10536 (modes 1, 2, 3, 4).
10536–P	DOT–E 10536 ..	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 173.86	To become a party to exemption 10536 (modes 1, 2, 3, 4).
10536–P	DOT–E 10536 ..	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 173.86	To become a party to exemption 10536 (modes 1, 2, 3, 4).
10536–P	DOT–E 10536 ..	Los Alamos National Laboratory, Los Alamos, NM.	49 CFR 173.86	To become a party to exemption 10536 (modes 1, 2, 3, 4).
10536–P	DOT–E 10536 ..	Allied Signal, Inc., Morristown, NJ.	49 CFR 173.86	To become a party to exemption 10536 (modes 1, 2, 3, 4).
10536–P	DOT–E 10536 ..	Lawrence Livermore National Laboratory, Livermore, CA.	49 CFR 173.86	To become a party to exemption 10536 (modes 1, 2, 3, 4).
10594–P	DOT–E 10594 ..	Palisade Constructors, Inc., Palisade, CO.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).
10594–P	DOT–E 10594 ..	Bogue Construction, Inc., Fruita, CO.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10594–P	DOT–E 10594 ..	Brickey Trucking, Naturita, CO.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).
10594–P	DOT-E 10594 ...	Reams Construction Co., Naturita, CO.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	
10594–P	DOT–E 10594 ..	Nielsons, Inc., Cortez, CO	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).
10594–P	DOT–E 10594 ..	Granite Construction Company, Sparks, NV.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10594–P	DOT–E 10594 ..	MK-Ferguson Company, Albuquerque, NM.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).
10594–P	DOT–E 10594 ..	Transystems, Inc., Great Falls, MT.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).
10594–P	DOT–E 10594 ..	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).
10594–P	DOT–E 10594 ..	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10594–P	DOT–E 10594 ..	Mountain Environmental, Inc., Dolores, CO.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).
10594–P	DOT–E 10594 ..	AFFTREX, LTD., Clairton, PA.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).
10594–P	DOT–E 10594 ..	Crowley Construction, Inc., Monticello, UT.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To bcome a party to exemption 10594 (modes 1, 2).
10594–P	DOT–E 10594 ..	Mountain Region Corporation, Grand Junction, CO.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10594–P	DOT–E 10594 ..	OHM Remediation Services Corp., Monticello, UT.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).
10594–P	DOT–E 10594 ..	Wastren—Grand Junction, Grand Junction, CO.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).
10594–P	DOT–E 10594 ..	MACTEC Environmental Restoration Services, LLC, Grand Junction, CO.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).
10610–P	DOT–E 10610 ..	Harcros Chemicals, Inc. (FL), Tampa, FL.	49 CFR 174.67(j)	To become a party to exemption 10610 (mode 2).
10610–P	DOT–E 10610 ..	Harcros Chemicals, Inc. (LA), St. Gabriel, LA.	49 CFR 174.67(j)	To become a party to exemption 10610 (mode 2).
10610–P	DOT–E 10610 ..	Harcros Chemicals, Inc. (TN), Memphis, TN.	49 CFR 174.67(j)	To become a party to exemption 10610 (mode 2).
10610–P	DOT–E 10610 ..	Harcros Chemicals, Inc. (TX), Dallas, TX.	49 CFR 174.67(j)	To become a party to exemption 10610 (mode 2).
10610–P	DOT–E 10610 ..	Harcros Chemicals, Inc. (AL), Muscle Shoals, AL.	49 CFR 174.67(j)	To become a party to exemption 10610 (mode 2).
10692–X	DOT–E 10692 ..	ProTank, Inc., Port Orange, FL.	49 CFR 178.61–11, 178.61–15, 178.61–20, 178.61–5, 178.61–8(c)(2).	Authorizes the manufacture, marking and sale of a non-DOT specification welded pressure vessel for use in the transportation of a Division 2.1 gas (mode 1).
10704–P	DOT–E 10704 ..	Portagas, Inc., Houston, TX.	49 CFR 173.11, 173.12(a)	To become a party to exemption 10704 (modes 1, 2).
10705–P	DOT–E 10705 ..	Envirotech Systems, Inc., Seattle, WA.	49 CFR 173.122(a)(5)	To become a party to exemption 10705 (mode 1).
10751–P	DOT–E 10751 ..	Conex, Inc., Derby, IN	49 CFR 177.848	To become a party to exemption 10751 (mode 1).
10751–P	DOT–E 10751 ..	Austin Powder Company, Cleveland, OH.	49 CFR 177.848	To become a party to exemption 10751 (mode 1).
10751–P	DOT–E 10751 ..	Golden State Explosives, Plymouth, CA.	49 CFR 177.848	To become a party to exemption 10751 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10751–P	DOT–E 10751 ..	American West Explosives, Inc., Plymouth, CA.	49 CFR 177.848	To become a party to exemption 10751 (mode 1).
10821–P	DOT–E 10821 ..	Safety Disposal System, Inc., Opa Locka, FL.	49 CFR 171.8, 172.101 Column (8c), 173.197.	To become a party to exemption 10821 (mode 2).
10870–P	DOT–E 10870 ..	Anderson Products Inc., Haw River, NC.	49 CFR 172.101, 172.400, 172.504, 173.323, 174.81 and 177.848.	Authorizes domestic transportation by rail and highway of ethylene oxide packaged in glass ampoules within a fiberboard box with a flammable gas (Division 2.1) label instead of both poison gas (Division 2.3) and flammable gas labels (modes 1, 2, 4, 5).
10880–P	DOT–E 10880 ..	Golden State Explosives, Plymouth, CA.	49 CFR 172.101 Column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).
10880–P	DOT–E 10880 ..	Buckley Powder Co., Englewood, CO.	49 CFR 172.101 column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).
10880–P	DOT–E 10880 ..	American West explosives, Inc., Plymouth, CA.	49 CFR 172.101 Column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).
10880–P	DOT–E 10880 ..	American East Explosives, Inc., Wilmington, DE.	49 CFR 172.101 column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).
10885–P	DOT–E 10885 ..	Mason & Hanger Corporation, Amarillo, TX.	49 CFR 172.101 Col. 9(b), 172.204(c)(3), 173.27(b)(2) and (3), 173.27(f) Table 2, 175.30(a)(1).	To become a party to exemption 10885 (mode 4).
10885–P	DOT–E 10885 ..	Sandia National Laboratories, Alburquerque, NM.	49 CFR 172.101 Col. 9(b), 172.204(c)(3), 173.27(b)(2) and (3), 173.27(f) Table 2, 175.30(a)(1).	To become a party to exemption 10885 (mode 4).
10885–P	DOT–E 10885 ..	Los Alamos National Laboratory, Los Alamos, NM.	49 CFR 172.101 Col. 9(b), 172.204(c)(3), 173.27(b)(2) and (3), 173.27(f) Table 2, 175.30(a)(1).	To become a party to exemption 10885 (mode 4).
10885–P	DOT–E 10885 ..	Allied Signal, Inc., Morristown, NJ.	49 CFR 172.101 Col. 9(b), 172.204(c)(3), 173.27(b)(2) and (3), 173.27(f) Table 2, 175.30(a)(1).	To become a party to exemption 10885 (mode 4).
10933–P	DOT–E 10933 ..	Rollins Environmental, Inc., Wilmington, DE.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933 ..	Triumvirate Environmental, Inc., Somerville, MA.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933 ..	Chemical Analytics, Inc., Romulus, MI.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933 ..	Midwest Transport, Inc., Menomonee Falls, WI.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933 ..	Tri-State Motor Transit, Inc., Joplin, Mo.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933 ..	Lawrence Livermore National Laboratory, Livermore, CA.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933 ..	Allwaste Environmental Services, Inc., San Martin, CA.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10981–X	DOT–E 10981 ..	Atlas Powder International Ltd., Pearlington, MS.	49 CFR 172.101, 173.62 and 176.83.	Authorizes the transportation of explosives, blasting, Type E Division 1.5D contained in DOT Specification IM 102 portable tanks stowed below deck on privately owned or chartered, dedicated explosives vessels (modes 1, 3).
10981–P	DOT–E 10981 ..	Austin Powder Company, Cleveland, OH.	49 CFR 172.101, 173.62 and 176.83.	To become a party to exemption 10981 (modes 1, 3).
10987–P	DOT–E 10987 ..	Industrial Gas Products & Supply, Inc., Colorado Springs, CO.	49 CFR 173.201, 173.202, 173.203, 173.302(a)(1), 173.304(a)(2), 173.34 (d) and (e).	To become a party to exemption 10987 (mode 1).
10996–P	DOT–E 10996 ..	Luna Tech, Inc., Owens Cross Roads, AL.	49 CFR 173 Subpart C	To become a party to exemption 10996 (modes 1, 2).
10997–9	DOT–E 10997 ..	HR Textron Inc., Pacoima, CA.	49 CFR 173.302(a), 175.3	To authorize the manufacture, mark and sell of non-DOT specification reusable cylinders having a 277 cubic inches maximum water capacity constructed of titanium alloy and built to requirements of DOT-specification 3HT for use in transportation nitrogen or mixtures classed as Division 2.2 (modes 1, 2, 4, 5).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11025–P	DOT–E 11025 ..	Mass System Inc., Baldwin Park, CA.	49 CFR 173.302(a)(2), 175.3, 178.44.	Authorizes the manufacture, mark and sell of a non-DOT specification welded stainless steel cylinder having 200 cubic inches maximum water capacity and 3800 psi maximum service pressure for transporting various Division 2.2 gases (modes 1, 2, 4, 5).
11043–P	DOT–E 11043 ..	United States Pollution Control, Inc., Columbia, SC.	49 CFR 177.848(D)	To become a party to exemption 11043 (mode 1).
11043–P	DOT–E 11043 ..	Chemical Pollution Control, Inc. of New York, Bay Shore, NY.	49 CFR 177.848(D)	To become a party to exemption 11043 (mode 1).
11043–P	DOT–E 11043 ..	Superior Special Services, Inc., Port Washington, WI.	49 CFR 177.848(D)	To become a party to exemption 11043 (mode 1).
11043–P	DOT–E 11043 ..	Chemical Conservation Corporation, Orlando, FL.	49 CFR 177.848(D)	To become a party to exemption 11043 (mode 1).
11043–P	DOT–E 11043 ..	Municipal Services Corporation, Columbia, SC.	49 CFR 177. 848(D)	To become a party to exemption 11043 (mode 1).
11043–P	DOT–E 11043 ..	Triumvirate Environmental, Inc., Somerville, MA.	49 CFR 177.848(D)	To become a party to exemption 11043 (mode 1).
11055–P	DOT–E 11055 ..	Rollis Chempak Inc., Wilmington, DE.	49 CFR 173.226(C), 174.81, 176.83, 177.848, Part 172, Subpart E.	To authorize the transport of combination packages of Division 6.1, Packing Group I, Hazard Zone A material be shipped with other hazardous materials (modes 1, 2, 3).
11055–P	DOT–E 11055 ..	SET Environmental, Inc., Wheeling, IL.	49 CFR 173.226(C), 174.81, 176.83, 177.848, Part 172, Subpart E.	To become a party to exemption 11055 (modes 1, 2, 3).
11055–P	DOT–E 11005 ..	Safeway Chemical Transportation, Inc., Wilmington, DE.	49 CFR 173.226(C), 174.81, 176.83, 177.848, Part 172, Subpart E.	To become a party to exemption 11055 (modes 1, 2, 3).
11055–P	DOT–E 11055 ..	Superior Special Services, Inc., Port Washington, WI.	49 CFR 173.226(C), 174.81, 176.83, 177.848, Part 172, Subpart E.	To become a party to exemption 11055 (modes 1, 2, 3).
11055–P	DOT–E 11055 ..	Rollins Environmental, Inc., Wilmington, DE.	49 CFR 173.226(C), 174.81, 176.83, 177.848, Part 172, Subpart E.	To become a party to exemption 11055 (modes 1, 2, 3).
11055–P	DOT–E 11055 ..	Envirotech Systems, Inc., Seattle, WA.	49 CFR 173.226(C), 174.81, 176.83, 177.848, Part 172, Subpart E.	To become a party to exemption 11055 (modes 1, 2, 3).
11153–P	DOT–E 11153 ..	Chemical Conservation Corporation, Orlando, FL.	49 CFR 177.848(d)	To become a party to exemption 11154 (mode 1).
11153–P	DOT–E 11153 ..	Municipal Services Corporation, Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11154 (mode 1).
1153–P	DOT–E 11153 ..	Bryson Industrial Services, Inc., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
1153–P	DOT–E 11153 ..	United States Pollution Control, Inc., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
1153–P	DOT–E 11153 ..	Solvent Services Company, Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
1153–P	DOT–E 11153 ..	Envirotech Systems, Inc., Seattle, WA.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
1153–P	DOT–E 11153 ..	Environmental Response, Inc., Hendersonville, TN.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
1153–P	DOT–E 11153 ..	Laidlaw Environmental Services (North East), Inc., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
1153–P	DOT–E 11153 ..	Laidlaw Environmental Services (FS), Inc., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
1153–P	DOT–E 11153 ..	Laidlaw Environmental Services (TS), Inc., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
1153–P	DOT–E 11153 ..	Laidlaw Environmental Services (TES), Inc., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
1153–P	DOT–E 11153 ..	Laidlaw Environmental Services (TG), Inc., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
1153–P	DOT–E 11153 ..	Laidlaw Environmental Services (Recovery), Inc., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
1153–P	DOT–E 11153 ..	Laidlaw Environmental Services of South Carolina, Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
1153–P	DOT–E 11153 ..	Laidlaw Environmental Services of Bartow, Inc., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
11153–P	DOT–E 11153 ..	Laidlaw Environmental Services of California, Inc., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
11153–P	DOT–E 11153 ..	Laidlaw Environmental Services of Illinois, Inc., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1)
11153–P	DOT–E 11153 ..	Laidlaw Environmental Services of Chattanooga, Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
11153–P	DOT–E 11153 ..	Laidlaw Environmental Services, Ltd., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
11153–P	DOT–E 11153 ..	Laidlaw Environmental Services (Quebec), Ltd., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
11156–P	DOT–E 11156 ..	Golden State Explosives, Plymouth, CA.	49 CFR 173.212(b) 173.62.	To become a party to exemption 11156 (mode 1).
11156–P	DOT–E 11156 ..	Evenson Explosives, LLC, Morris, IL.	49 CFR 173.212(b), 173.62.	To become a party to exemption 11156 (mode 1).
11156–P	DOT–E 11156 ..	American West Explosives, Inc., Plymouth, CA.	49 CFR 173.212(b), 173.62.	To become a party to exemption 11156 (mode 1).
11172–X	DOT–E 11172 ..	Lockheed Engineering & Sciences Company, San Diego, CA.	49 CFR 173.301(h) 173.302(a) (1), (2) & (3), 175.3.	Authorizes the transportation of non-DOT specification (spherically shaped) cylinders, comparable to DOT specification 3A, used in a deep submergence rescue system designed to remove crew members trapped in a disabled submarine, to store air, nitrogen, and oxygen in non-liquefied form (mode 1, 4, 5).
11173–P	DOT–E 11173 ..	Assured Space Access, Inc., Chandler, AZ.	49 CFR 173.227, 173.201, 173.226, 178.61–11, 178.61–20, 178.61–5, 178.61–8(b).	To become a party to exemption 11173 (modes 1, 2, 3, 4, 5).
11173–P	DOT–E 11173 ..	Earthwatch, Inc., Longmont, CO.	49 CFR 173.227, 173.201, 173.226, 178.61–11, 178.61–20, 178.61–5, 178.61–8(b).	To become a party to exemption 11173 (modes 1, 2, 3, 4, 5).
11196–P	DOT–E 11196 ..	Compagnie Des Containers, Reservoirs, Paris, France.	49 CFR 178.245–1(b)	To become a party to exemption 11196 (modes 1, 2, 3).
11196–P	DOT–E 11196 ..	Eurotainer SA, Paris, France.	49 CFR 178.245–1(b)	To become a party to exemption 11196 (modes 1, 2, 3).
11197–P	DOT–E 11197 ..	Wacker Silicones Corporation, Adrian, MI.	49 CFR 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197 ..	Kemwater North America Company, Antioch, CA.	49 CFR 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197 ..	Varian Associates, Inc., Palo Alto, CA.	49 CFR 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197 ..	Rho-Chem, Incorporated; Inglewood, CA.	49 CFR 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197 ..	Chemical Reclamation Services, Avalon, TX.	49 CFR 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197 ..	Solvent Recovery Corporation, Kansas City, MO.	49 CFR 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11207–P	DOT–E 11207 ..	NIPSCO Industries Companies, Hammond, IN.	49 CFR 172.301(c), 173.202, 173.28(b)(2), Part 107, Appendix, Subpart B, Paragraph (2).	To become a party to exemption 11207 (mode 1).
11207–P	DOT–E 11207 ..	Northern States Power Company, Eau Claire, WI.	49 CFR 172.301(c), 173.202, 173.28(b)(2), Part 107, Appendix, Subpart B, Paragraph (2).	To become a party to exemption 11207 (mode 1).
11207–P	DOT–E 11207 ..	Pike Co. Light and Power Co., Milford, PA.	49 CFR 172.301(c), 173.202, 173.28(b)(2), Part 107, Appendix, Subpart B, Paragraph (2).	To become a party to exemption 11207 (mode 1).
11207–P	DOT–E 11207 ..	Rockland Electric Company, Saddle River, NJ.	49 CFR 172.301(c), 173.202, 173.28(b)(2), Part 107, Appendix, Subpart B, Paragraph (2).	To become a party to exemption 11207 (mode 1).
11207–P	DOT–E 11207 ..	Orange & Rockland Utilities, Inc., Middletown, NY.	49 CFR 172.301(c), 173.202, 173.28(b)(2), Part 107, Appendix, Subpart B, Paragraph (2).	To become a party to exemption 11207 (mode 1).
11215–P	DOT–E 11215 ..	Orbital Sciences Corp., Dulles, VA.	49 CFR and 173.62, Part 107, Subpart B, Appendix B; 172.102 note 109;, Part 172 Subpart C, D, E, F; Part 173 Subpart E, G.	Authorizes the transportation in commerce of certain hazardous materials, contained in a pegasus XL three stage winged solid fuel rocket in captive carry launch (CCL) configuration secured beneath a McDonnell Douglas L–1011 (L–1011) aircraft. The flight of teh L–1011 must be in accordance with th (mode 4).
11220–X	DOT–E 11220 ..	Environmental Products & Services, Inc., Syracuse, NY.	49 CFR 172.301(c), 173.28(b)(2), Part 107, Subpart B, Appendix B.	Authorizes the refilling and reuse of certain packagings, which have not been subjected to the leakproofness test in accordance with 49 CFR 173.28(b)(2) (modes 1, 2, 3).
11227–X	DOT–E 11227 ..	Western Atlas, International, Houston, TX.	49 CFR 173.62 Packing Instruction E–114.	Authorizes the transportation of certain cartridges, power devices (UN 0276) 1.4C in specially designed vehicles and offshore tool pallets (modes 1, 3, 4).
11230–P	DOT–E 11230 ..	Golden State Explosives, Plymouth, CA.	49 CFR 173.62(c) Packing Method US004, 177.835(g)(3)(i), 177.848(f) Table.	To become a party to exemption 11230 (mode 1).
11230–P	DOT–E 11230 ..	Boren-Ireco Company, Inc., Parrish, AL.	49 CFR 173.62(c) Packing Method US004, 177.835(g)(3)(i), 177.848(f) Table.	To become a party to exemption 11230 (mode 1).
11230–P	DOT–E 11230 ..	American West Explosives, Plymouth, CA.	49 CFR 173.62(c) Packing Method US004, 177.835(g)(3)(i), 177.848(f) Table.	To become a party to exemption 11230 (mode 1).
11230–P	DOT–E 11230 ..	Mountain-Valley Explosives Co., Inc., Paintsville, KY.	49 CFR 173.62(c) Packing Method US004, 177.835(g)(3)(i), 177.848(f) Table.	To become a party to exemption 11230 (mode 1).
11248–P	DOT–E 11248 ..	HAZMATPAC, Houston, TX.	49 CFR 173.3(a), 175.3, 177.848(b), 49 CFR 172 Subpart E & Subpart F, and Subpart H, Part 173, Subpart D, Subpart E, Subpart F.	To authorize the manufacture, mark and sale of specially designed combination type packaging for transporting certain hazardous materials without required labelling and placarding in limited quantities (modes 1, 2, 3, 4, 5).
11253–P	DOT–E 11253 ..	DPC Industries, Inc., Houston, TX.	49 CFR 172.101, Special Provision B14, 173.315 Notes 4 and 24, 49 CFR Section.	To become a party to exemption 11253 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11260–P	DOT–E 11260 ..	Texas Instruments Inc., Attleboro, MA.	49 CFR 173.306(a)(1)	To authorize the transportation of argon, compressed gas, Division 2.2, in low pressure airbag switches, containing .021 cubic inch of argon at a pressure between 2500 and 3000 psi in specially designed packing (mode 1).
11294–P	DOT–E 11294 ..	Chemical Pollution Control, Inc. of New York, Bay Shore, NY.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294 ..	Municipal Services Corporation, Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294 ..	J.B. Hunt Special Commodities, Inc., Lowell, AR.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294 ..	Solvent Services Company, Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294 ..	Envirotech Systems, Inc., Seattle, WA.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294 ..	Laidlaw Environmental Services of Chattanooga, Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294 ..	Laidlaw Environmental Services of Bartow, Inc., Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294 ..	Laidlaw Environmental Services of South Carolina, Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294 ..	Laidlaw Environmental Services (WT), Inc., Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294 ..	Laidlaw Environmental Services (Recovery), Inc., Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294 ..	Laidlaw Environmental Services, Ltd, Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294 ..	Laidlaw Environmental Services, (Quebec), Ltd. Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294 ..	Chemical Analytics, Inc., Romulus, MI.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294 ..	Triumvirate Environmental, Inc., Somerville, MA.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11296–P	DOT–E 11296 ..	Republic Environmental Systems (Transp. Group), Hatfield, PA.	49 CFR Section 173.306 ..	To become a party to exemption 11296 (modes 1, 2).
11356–P	DOT–E 11356 ..	W.C. Richards Company, Blue Island, IL.	49 CFR 173.121(b)(1)(iii)	To become a party to exemption 11356 (mode 1).
11373–P	DOT–E 11373 ..	Mid-State Chemical & Supply Corp., Indianapolis, IN.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Taylor Salt and Chemical Company, Inc., Charlotte, NC.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Industrial Chemicals, Inc., Birmingham, AL.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Van Waters & Rogers, Inc., Kirkland, WA.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Chem-Way Corporation, Charlotte, NC.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Independent Chemical Corporation, Glendale, NY.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Van Waters & Rogers, Inc., Los Angeles, CA.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Burris Chemical, Inc., Charleston, SC.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Worth Chemical Corporation, Greenboro, NC.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Prillaman Chemical Corporation, Martinsville, VA.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11373–P	DOT–E 11373 ..	Pioneer Chemical, Inc., Mesquite, TX.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Veckridge Chemical Company, Inc., Kearny, NJ.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Slack Chemical Company, Carthage, NY.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Apperson Chemicals, Inc., Jacksonville, FL.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Chemical Services, Incorporated, Dayton, OH.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Chemical Resoures, Incorporated, Louisville, KY.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Chemicals, Incorporated, Cincinnati, OH.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Bonded Chemicals, Incorporated, Columbus, OH.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	American Industrial Chemical Corporation, Smyrna, GA.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Kramer Chemical, Inc., Glen Rock, NJ.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	Kramer Chemicals, Inc., Johnstown, NY.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373 ..	G.M. Gannon Company, Warwick, RI.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11382–P	DOT–E 11382 ..	Structural Composities Industries, Pomona, CA.	49 CFR 173.302(a)(5), 173.34, 175.3, 178.46.	Authorizes the manufacture, marking and sale of non-DOT specification fiber reinforced plastic (FRP) hoop wrapped cylinders to be used for transportation of certain compressed gases (modes 1, 2, 3, 4, 5).
11383–P	DOT–E 11383 ..	Astrotech Space Operations, L.P., Titusville, FL.	49 CFR 173.336	To become a party to exemption 11383 (mode 1).
11405–P	DOT–E 11405 ..	L & H Technologies, Charlotte, NC.	49 CFR 172.203(a), 172.301(c), Part 107, Appendix B, Subpart B, Paragraph 1 & 2, Part 173, Appendix E (3)(b), (1)(a).	To become a party to exemption 11405 (modes 1, 2, 3, 4, 5).
11405–P	DOT–E 11405 ..	Benco, Charlotte, NC	49 CFR 172.203(a), 172.301(c), Part 107, Appendix B, Subpart B, Paragraph 1 & 2, Part 173, Appendix E (3)(b), (1)(a).	To become a party to exemption 11405 (modes 1, 2, 3, 4, 5).
11416–P	DOT–E 11416 ..	Lockheed Martin Utility Services (LMUS), Bethesda, MD.	49 CFR 172.302(c), 173.420.	To become a party to exemption 11416 (modes 1, 4, 5).
11447–P	DOT–E 11447 ..	Saes Pure Gas, Inc., San Luis Obispo, CA.	49 CFR 173.187	Authorizes the transportation of certain quantities of metal catalyst, classed as Division 4.2, in non-DOT specification packaging that exceed the maximum net quantity allowed per package (modes 1, 4).
11458–P	DOT–E 11458 ..	Reckitt & Colman, Inc., Montvale, NJ.	49 CFR 172.203(a), 173.150(b), 173.152(b), 173.154(b), 173.155(b), 173.306 (a) & (h), Part 107, Subpart B, Appendix B, Part 107, Subpart B, Appendix B.	To become a party to exemption 11458 (mode 1).
11458–P	DOT–E 11458 ..	Helene Curtis, Inc., Rolling Meadows, IL.	49 CFR 172.203(a), 173.150(b), 173.152(b), 173.154(b), 173.155(b), 173.306 (a) & (h), Part 107, Subpart B, Appendix B, Part 107, Subpart B, Appendix B.	To become a party to exemption 11458 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11458–P	DOT–E 11458 ..	Creative Products, Inc., Rossville, IL.	49 CFR 173.203(a), 173.150(b), 173.152(b), 173.154(b), 173.155(b), 173.306 (a) & (h), Part 107, Subpart B, Appendix B, Part 107, Subpart B, Appendix B.	To become a party to exemption 11458 (mode 1).
11458–P	DOT–E 11458 ..	Warner-Lambert Company, Inc., Morris Plains, NJ.	49 CFR 172.203(a), 173.150(b), 173.152(b), 173.154(b), 173.155(b), 173.306 (a) & (h), Part 107, Subpart B, Appendix B, Part 107, Subpart B, Appendix B.	To become a party to exemption 11458 (mode 1).
11588–P	DOT–E 11588 ..	Red Environmental Disposal, Inc., Central Islip, NY.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588 ..	American Waste Industries, Inc., Norfolk, VA.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588P	DOT–E 11588 ..	American Medical Disposal, Oklahoma City, OK.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588 ..	Medihaul, Inc., Orion, MI ..	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588 ..	NVISION Works, Inc., Navesink, NJ.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588 ..	Medical Waste Transport, Inc., Sioux Falls, SD.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11600–P	DOT–E 11600 ..	Esquire Novelty Corp. (div. of Strombecker Corp.), Amsterdam, NY.	49 CFR 172.101	To become a party to exemption 11600 (modes 1, 2, 3, 4).
11600–P	DOT–E 11600 ..	Durant Plastics, Inc., (div. of Strombecker, Corp.), Durant, OK.	49 CFR 172.101	To become a party to exemption 11600 (modes 1, 2, 3, 4).
11600–P	DOT–E 11600 ..	Esquire Canada, Inc. (affiliate Strombecker Corp.), Port Robinson, Ontario, CN.	49 CFR 172.101	To become a party to exemption 11600 (modes 1, 2, 3, 4).
11602–P	DOT–E 11602 ..	Mercury Marine, Division of Brunswick Corp., Stillwater, OK.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Mercury Marine, Division of Brunswick Corp., Fond Du Lac, WI.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Bodine Aluminum, Inc., Troy, MO.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Bodine Aluminum, Inc., St. Louis, Mo.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	The William L Bonnell Company, Inc., Carthage, TN.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	The William L Bonnell Company, Inc., Newnan, GA.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Vanalco, Inc., Vancouver, WA.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Aluminum Resources, Inc., Smyrna, TN.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11602–P	DOT–E 11602 ..	MICA Metals, INC., Bedford, IN.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Wells Aluminum Corporation, Baltimore, MD.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Institute of Scrap Recycling Industries, Washington, DC.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Tobian Metals, Inc., St. Joseph, MI.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Custom Alloy Scrap Sales, Inc., Oakland, CA.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	ADC, L.P. d/b/a Anderson Die Castings, Wheeling, IL.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Taber Metals Limited Partnership, Russellville, AR.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).′
11602–P	DOT–E 11602 ..	Taber Metals Gulfport, L.P., Gulfport, MS.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Tower Metal Products, L.P., Fort Scott, KS.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Tower Extrusions, LTD., Olney, TX.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Louis J. Homan Metals, Co., Cincinnati, OH.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Rusk Metal Company, Dubuque, IA.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	American Meter Company, Nebraska City, NE.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Walker Die Casting, Inc., Lewisburg, TN.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Atemco, Bryan, TX	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Stahl Specialty Co., Kingsville, MO.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Superior Aluminum Castings, Inc., Independence, MO.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11602–P	DOT–E 11602 ..	Systems Waste Removal, Kentwood, MI.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	American Foundrymen's Society, Inc., Des Plaines, IL.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	North American Die Casting Association, Rosemont, IL.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Non-Ferrous Founders' Society, Des Plaines, IL.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Jan Metals, Inc., Lorain, OH.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	J. Kuhl Metals Co., Inc., Harrison, NJ.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	International Extrusion Corporation—Texas, Waxahachie, TX.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	EPP–MAR Metal Company, Evanston, IL.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Thorock Metals, Inc., Compton, CA.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Beck Aluminum Corp., Cleveland, OH.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	National Metals, Inc., Leeds, AL.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Keystone Aluminum, Inc., Mars, PA.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Emerson Electric Co., St. Louis, MO.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11602–P	DOT–E 11602 ..	Adelanto Aluminum, Co., Inc., Hesperia, CA.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, Appendix B to Part 107.	To become a party to exemption 11602 (modes 1, 2, 3).
11619–P	DOT–E 11619 ..	National Aeronautics & Space, Administration (NASA), Washington, DC.	49 CFR 173.304, 178.36 ..	To become a party to exemption 11619 (mode 1).
11624–P	DOT–E 11624 ..	PPM Canada, Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	United States Pollution, Control, Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Bryson Industrial Services, Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Solvent Services Company, Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services de Mexico, S.A., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services, Ltd., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services (Quebec), Ltd., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services of California, Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services of South Carolina, Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services of Illinois, Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services of Chattanooga, Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services (North East), Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services (Recovery), Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services (TES), Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services (FS), Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services (WT), Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services (TS), Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Municipal Service Corporation, Columbia, SC.	49 CFR 173.173(d)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services (TG), Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Laidlaw Environmental Services of Bartow, Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	M P Environmental Service, Inc., Bakersfield, CA.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Tri-State Motor Transit, Inc, Byron, CA.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	City Environmental Services, Inc. of Florida, Tampa, FL.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	EOG Environmental, Milwaukee, WI.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Rollins Enviromental, Inc., Wilmington, DE.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Inland Waters Pollution Control, Inc., Detriot, MI.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	City Environmental, Inc., Detroit, MI.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Heritage Transport, Inc., Indianapolis, IN.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Advanced Environmental Technical Services, Flanders, NJ.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Allwaste Environmental Services, Inc., San Martin, CA.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11624–P	DOT–E 11624 ..	ENSCO, Inc., dba Division Transport, El Dorado, AR.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	Dart Trucking Company, Inc., Canfield, OH.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11624–P	DOT–E 11624 ..	MSE Environmental, Inc., Camarillo, CA.	49 CFR 173.173(b)(2)	To become a party to exemption 11624 (mode 1).
11651–P	DOT–E 11651 ..	Bayer Corp., Pittsburgh, PA.	49 CFR 173.241(b)	To authorize the transportation in commerce of self-heating solid, organic, Division 4.2 material in non-DOT specification sift-proof cargo tanks (mode 1).
11660–P	DOT–E 11660 ..	Olsen Tuckpointing Co., Rolling Meadows, IL.	49 CFR 173.242	To authorize the emergency transportation of two flat bed trucks with attached hydrochloric acid solution tanks equipped with specially designed liner and pressure tested at 100 psi (mode 1).
11666–P	DOT–E 11666 ..	SGL Carbon Corporation, Charlotte, NC.	49 CFR 173.240(b)	To become a party to exemption 11666 (mode 1).
11685–P	DOT–E 11685 ..	Remote Effects Systems, Inc., Prior Lake, MN.	49 CFR 173.54, 173.56	To become a party to exemption 11685 (mode 1).
11685–P	DOT–E 11685 ..	Banner Fireworks Display, Inc., Zimmerman, MN.	49 CFR 173.54, 173.56	To become a party to exemption 11685 (mode 1).
11685–P	DOT–E 11685 ..	National Fireworks Association, Inc., Harrisburg, PA.	49 CFR 173.54, 173.56	To become a party to exemption 11685 (mode 1).
11685–P	DOT–E 11685 ..	American Pyrotechnics Assoc., Chestertown, MD.	49 CFR 173.54, 173.56	To allow the limied shipment of approved fireworks devices classed as 1.4G or 1.3G explosives that have an approved electric match (igniter) attached to the device (mode 1).
11706–P	DOT–E 11706 ..	URS Consultants, Inc., Denver, CO.	49 CFR 123	To authorize the emergency transportation for final disposition of drums containing hazardous waste, solid n.o.s., Class 9 (modes 1, 2).
11714–P	DOT–E 11714 ..	Accent Stripe, Inc., Orchard Park, NY.	49 CFR 173.33	To authorize the emergency transportation of non-DOT specification containers for use in transporting paint or epoxy for use in road striping (mode 1).
11753–P	DOT–E 11753 ..	Olin Corporation, Norwalk, CT.	.....	To become a party to exemption 11753 (mode 1).
11753–P	DOT–E 11753 ..	General Chemical Corporation, Parsippany, NJ.	.....	To become a party to exemption 11753 (mode 1).
11788–P	DOT–E 11788 ..	Trilla Steel Drum Corporation, Chicago, IL.	49 CFR 173.28(b)(4)	To become a party to exemption 11788 (modes 1, 2, 3, 4, 5).

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10664–N	DOT–E 10664 ..	EFIC Corporation, San Jose, CA.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To manufacture, mark and sell fully overwrapped high pressure cylinders consisting of aluminum liners overwrapped in carbon and glass fibers for transportation of nonliquified compressed gases (modes 1, 2, 3, 4, 5).
10915–N	DOT–E 10915 ..	Luxfer USA Limited, Riverside, CA.	49 CFR 173.302(a)(1), 173.304(a)(d), 175.3.	To authorize the manufacture, mark and sell of non-DOT specification fiber reinforced plastic cylinders built to DOT FRP–1 standard for use in transporting various flammable and non-flammable gases (modes 1, 2, 3, 4, 5).
10945–N	DOT–E 10945 ..	Structural Composites Industries, Pomona, CA.	49 CFR 173.302(a), 173.304(a), 175.3.	To authorize the manufacture, mark and sale of non-DOT specification fiber reinforced plastic full composite cylinders constructed of seamless 6061–T6 aluminum pressure vessel fully overwrapped with filament windings for use in transporting various material classed as flammable and non-flammable gases, Class 2 (modes 1, 2, 3, 4, 5).

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10997–N	DOT–E 10997 ..	HR Textron, Inc., Pacoima, CA.	49 CFR 173.302(a), 175.3	To authorize the manufacture, mark and sell of non-Dot specification reusable cylinders having a 277 cubic inches maximum water capacity constructed of titanium alloy and built to requirements of DOT-specification 3HT for use in transportation nitrogen or mixtures classed as Division 2.2 (modes 1, 2, 4, 5).
11194–N	DOT–E 11194 ..	Pressure Technology, Inc., Hanover, MD.	49 CFR 173.304(a), 175.3, 49 CFR 173.302(a).	To authorize the manufacture, mark and sell of non-DOT specification fiber reinforced plastic full composite cylinder for shipment of certain Division 2.1 and 2.2 gases (modes 1, 2, 3, 4, 5).
11533–N	DOT–E 11329 ..	Research Products Co., Salina, KS.	49 CFR 172.500, 172.504, 172.506.	To authorize the transportation in commerce of an aluminum phosphide based pesticide which meets the definition of the Division 4.3 material to be shipped as aluminum phosphide pesticide, a Division 6.1 material (mode 1).
11424–N	DOT–E 11424 ..	Midwest Corporate Air, Inc., Bellefontaine, OH.	49 CFR 107, Subpart B, 172.101, 172.204(c)(3), 173.27, 175.30(a)(1).	To authorize the transportation of Division 1.1, 1.2, 1.3 and 1.4 explosives which are forbidden or exceed quantities authorized (mode 4).
11425–N	DOT–E 11425 ..	Hoechst Celanese, Charlotte, NC.	49 CFR 177.834(i)(3)	To authorize the loading and unloading of cargo tanks containing liquid elevated temperature material (dimethyl terephthalate), with an attendant present at all times, but not within 25 feet, as required in 49 CFR (mode 1).
11466–N	DOT–E 11466 ..	Monsanto Co., St. Louis, MO.	49 CFR 177.837(a)	To authorize the engine of a motor vehicle to remain running while loading or unloading Class 3 material at temperature below 10 degrees F to prevent engine starting problems (mode 1).
11470–N	DOT–E 11470 ..	North East Chemical Corp., Cleveland, OH.	49 CFR 172.301(a)(2)	To authorize the transportation in commerce of shrink wrapped pallets containing boxes of waste ORM–D materials with the word ''WASTE'' marked on the outside of the pallet instead of on each individual box (modes 1, 2).
11503–N	DOT–E 11503 ..	The American Waterways Operators, Seattle, WA.	49 CFR 172.504(a)	To authorize the transportation of unmanned deck barges without required placarding and segregation requirement with covered cargoes weighing under 1001 pounds (mode 3).
11505–N	DOT–E 11505 ..	Manchester Tank, Brentwood, TN.	49 CFR 173.34(i)(6)	To authorize DOT–4BW cylinders to be exempt from heat treatment requirements for use in transporting hazardous materials presently authorized by the CFR (mode 1).
11522–N	DOT–E 11522 ..	The American Waterways Operators, Seattle, WA.	49 CFR 176.905(k)	To authorize battery cables in (self-propelled) vehicles to remain connected and stowed in closed freight containers and transported on unmaned open-deck steel barges (mode 3).
11526–N	DOT–E 11526 ..	BOC Gases, Murray Hill, NJ.	49 CFR 172.302(c), 173.34(e).	To authorize the use of ultrasonic inspection method in lieu of hydrostatic testing of 3A and 3AA cylinders (modes 1, 2, 3).
11541–N	DOT–E 11541 ..	Kaiser Compositek, Brea, CA.	49 CFR 173.302(a), 173.304(a)(d), 175.3.	To authorize the manufacture, mark and sale of non-DOT specification fiber reinforced plastic full composite cylinders constructed from seamless 6061–T6 aluminum alloy liner for use in transporting certain flammable gases, Division 2.1 (modes 1, 2, 3, 4, 5).
11542–N	DOT–E 11542 ..	Sunrise Supply Enterprises, Ltd., Albuquerque, NM.	49 CFR 107.503(1), 107.503(1), 178.340–5(d).	To authorize the manufacture, mark and sale of one non-DOT specification cargo tank built to MC 306 requirements except for ASME ''U'' stamp for used in transporting flammable liquid, Class 3 (mode 1).
11565–N	DOT–E 11565 ..	C.P.F. Dualam Inc., Gatesville, TX.	49 CFR 178.345, 178.348	To authorize the manufacture, mark and sale of non-DOT specification cargo tanks of fiberglass construction for use in transporting Class 8 material (mode 1).
11583–N	DOT–E 11583 ..	Alaska Railroad Corp., Anchorage, AL.	49 CFR 174.82(b)	To authorize the transportation of freight traffic and passengers in mixed train service (mode 2).
11593–N	DOT–E 11593 ..	Johnson & Johnson, Skillman, NJ.	49 CFR 162.301, 172 Subpart C, 172 Subpart F, 172 Subpart G, 172.400, 173.184(b), 178.	To authorize the transportation of highway fusees packed in first-aid kits for retail sales, to be reclassed as ORM–D to be shipped without required shipping papers, marking, labelling or placarding (mode 1).

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11615–N	DOT–E 11615 ..	Allied-Signal Aerospace Co., Kansas City, MO.	49 CFR 178.65, 178.65–11, 178.65–12.	To authorize an alternative testing method for DOT-Specification 39 (non-reusable/non-refillable cylinders) used as part of specially designed equipment for use in transporting various hazardous materials (mode 1).
11619–N	DOT–E 11619 ..	Univ. of New Hampshire, Durham, NH.	49 CFR 173.304, 178.36 ..	To authorize the transportation in commerce of the Solar Energetic Particle Ionic Charge Analyzer (SEPICA) which contains isobutane, a Division 2.1 material, in non-DOT specification containers (mode 1).
11620–N	DOT–E 11620 ..	Advanced Monobloc Corp., Hermitage, PA.	49 CFR 173.306(3)(ii)	To authorize the manufacture, mark and sale of non-DOT specification cylinders which are comparable to a DOT Specification 39 cylinder for the transportation of refrigerant gas 134A, Division 2.2 (modes 1, 2, 3, 4).
11622–N	DOT–E 1162	Monsanto Co., St. Louis, MO.	49 CFR 173.35(b)	To authorize the transportation in commerce of reused flexible intermediate bulk containers (IBC) used to ship up to 1200 1bs. per container of Class 9 granular solids (mode 1).
11636–N	DOT–E 11636 ..	National Independent Parts Cleaners, Association Canby, OR.	49 CFR 173.150(f)(3)(vii), 173.150 (f)(3)(vii), 173.28(b)(2), 173.28(b)(2).	To authorize the transportation in commerce of reused 1A2 steel drums without leak proofness test for use in transporting waste combustible liquids (mode 1).
11647–N	DOT–E 11647 ..	Taylor-Wharton Co., Harrisburg, PA.	49 CFR 172.203(a), 172.301(c), 178.37–4.	To authorize the manufacture, mark and sale of billet pierced DOT specification 3AA cylinders without billets being inspected after parting (modes 1, 2, 3, 4, 5).
11665–N	DOT–E 11665 ..	Pan Air, Houston, TX	49 CFR 171.11, 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize the transportation in commerce of Division 1.1, 1.2, 1.3 and 1.4 explosives which are forbidden for shipment by air or are in quantities greater than those prescribed for shipment by air (mode 4).
11666–N	DOT–E 11666 ..	UCar International Inc., Danbury, CT.	49 CFR 173.240(b)	To authorize the transportation of graphite products classified as Miscellaneous Hazardous Class 9 material in bulk packaging strapped to wooden pallets on an open flat truck bed (mode).
11669–N	DOT–E 11669 ..	Ciba-Geigy Corp., Tarrytown, NY.	49 CFR 177.834(i)(2)	To authorize the unloading of Division 2.2 and Division 2.3 material from cargo tanks into storage tanks without the physical presence of an unloader (mode 1).
11686–N	DOT–E 11686 ..	Bridgeview, Inc., Morgantown, PA.	49 CFR 171.8, 172.101(8.c), 173.197.	To authorize the transportation in commerce of regulated medical waste in plastic bags in non-DOT specification steel roll-off containers as outer packaging (mode 1).
11690–N	DOT–E 11690 ..	CP Industries, Inc., McKeesport, PA.	49 CFR 178.45–2(b)	To authorize the manufacture, mark and sale of 3T cylinder in sizes smaller than 1000 lbs. capacity for use in transporting various non-liquefied and liquefied compressed gases Division 2.1 and 2.2 (mode 1).
11691–N	DOT–E 11691 ..	PepsiCo International, Valhalla, NY.	49 CFR 176.331, 176.800(a), 176.83(d).	To authorize the transportation in commerce of various classes of hazardous materials and foodstuffs to be exempt from segregation requirements during vessel stowage (mode 3).
11693–N	DOT–E 11693 ..	Kemin Industries, Inc., Des Moines, IA.	49 CFR 173.218(c)	To authorize the bulk transportation by vessel, in freight containers, of fishmeal treated with NATUROX instead of ethoxyqui, Division 4.2 (mode 3).
11702–N	DOT–E 11702 ..	Eka Nobel Inc., Columbus, MS.	49 CFR 172.101 SP B81, 178.345–10.	To authorize the use of a continuous vent and pressure relief device on DOT 412 stainless steel cargo tanks for use in transporting Division 5.1. material (mode 2).
11708–N	DOT–E 11708 ..	Elf Atochem North America, Inc., Philadelphia, PA.	49 CFR 172.101, SP T18&T26.	To authorize the transportation in commerce of methane sulfonic acid, Class 8, in IM101 tanks (mode 1).
11724–N	DOT–E 11724 ..	Sea-Land Service, Inc., Charlotte, NC.	49 CFR 176.905(c), 176.905(k).	To authorize the transportation in commerce of a motor vehicle to be transported in a closed freight container, above and below deck, with up to ¼ tank of fuel and battery fully connected (mode 3).

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11725–N	DOT–E 11725 ..	Swales Thermal Systems, Beltsville, MD.	49 CFR 173.301, 173.302(a), 173.304(a)(2), 173.34(d), 173.40, 175.3.	To authorize the transportation in commerce of certain non-DOT specification containers containing certain Division 2.1, 2.2 and 2.3 liquefied and compressed gases (mode 1).
11733–N	DOT–E 11733 ..	AKZO Nobel Chemicals Inc., Chicago, IL.	49 CFR 173.301, 173.302, 173.302, 173.304, 173.304, 178.345–10(b), 178.345–10(e).	To authorize the transportation in commerce of various Division 5.2 material in certain non-DOT specification cargo tanks which deviate from the requirements for Specification DOT 407 or DOT 412 (mode 1).
11745–N	DOT–E 11745 ..	Public Service Electric & Gas Co., Hancocks Bridge, NJ.	49 CFR 173.427(b)(1)	To authorize the transportation in commerce of steam generators containing Class 7 material in alternative packaging (mode 3).
11750–N	DOT–E 11750 ..	Department of Energy, Albuquerque, NM.	49 CFR 173.24, 173.24, 173.301, 173.304, 178.3.	To authorize the transportation in commerce of 200 non-DOT specification pressure vessels for use in transporting a Division 2.2 material (modes 1, 2).
11754–N	DOT–E 11754 ..	National Aeronautics & Space Administration, Washington, DC.	49 CFR 173.304(a)(2)	To authorize the transportation in commerce of a specially designed space device which contains compressed and liquefied gases, Division 2.1 and 2.2 in non-DOT specification containers (mode 1).

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 4453–P	DOT–E 4453	Energetic Solutions, Inc., Dallas, TX.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).
EE 4453–P	DOT–E 4453	Tri-State Motor transit Co., Joplin, MO.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).
EE 4588–P	DOT–E 4588	Sandia National laboratories, Albuquerque, NM.	49 CFR 173.65(a)	Authorizes the use of a packaging not presently prescribed for certain Division explosives (mode 1).
EE 4726–P	DOT–E 4726	AlliedSignal Inc., Kansas City, MO.	49 CFR 173.304, 173.338.	Authorizes the transport of certain liquid metal fluorides in non-DOT specification monel cylinders, overpacked in a strong wooden box with cushioning material (mode 1).
EE 5206–P	DOT–E 5206	Energetic Solutions, Inc., Dallas, TX.	49 CFR 173.24(c), 173.3(a), 173.3(b), 173.60.	To become a party to exemption 5206 (mode 1).
EE 6743–P	DOT–E 6743	Energetic Solutions, Inc., Dallas, TX.	49 CFR 172.101, 173.242, 177.848(d).	To become a party to exemption 6743 (mode 1).
EE 6765–X	DOT–E 6765	Messer Griesheim Industries, Inc., Malvern, PA.	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 177.840, 178.338.	Authorizes the use of non-DOT specification portable tanks for transportation of a Division 2.1 and a Division 2.2 material (modes 1, 3).
EE 8451–X	DOT–E 8451	Magnavox Electronic Systems Company, Fort Wayne, IN.	49 CFR 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container (modes 1, 2, 4).
EE 8453–P	DOT–E 8453	Energetic Solutions, Inc., Dallas, TX.	49 CFR 173.114a	To become a party to exemption 8453 (modes 1, 3).
EE 8453–P	DOT–E 8453	Tri-State Motor Transit Co., Joplin, MO.	49 CFR 173.114a	To become a party to exemption 8453 (modes 1, 3).
EE 8554–P	DOT–E 8554	Energetic Solutions, Inc., Dallas, TX.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (modes 1, 3).
EE 8554–P	DOT–E 8554	Tri-State Motor Transit Co., Joplin, MO.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (modes 1, 3).
EE 8723–P	DOT–E 8723	Energetic Solutions, Inc., Dallas, TX.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (modes 1, 2).
EE 8723–P	DOT–E 8723	Tri-State Motor Transit Co., Joplin, MO.	49 CFR 172.101, 173.114a(h)(3), 173.154, 176.415, 176.83.	To become a party to exemption 8723 (modes 1, 2).
EE 8815–P	DOT–E 8815	Energetic Solutions, Inc., Dallas, TX.	49 CFR 173.62	To become a party to exemption 8815 (mode 1).

EMERGENCY EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9275–P	DOT–E 9275	Perfumes Isabell, New York, NY.	49 CFR Parts 100–199 ..	To become a party to exemption 9275 (modes 1, 2, 3).
EE 9623–P	DOT–E 9623	Energetic Solutions, Inc., Dallas, TX.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (mode 1).
EE 10594–P	DOT–E 10594 ..	Wastren—Grand Junction, Grand Junction, CO.	49 CFR 171.15, 171.16, 172.202, 172.203(c)(1)(i)'', 172.203(d)(1), 172.310, 172.316(a)(7), 172.331(b)(2), 172.332, 173.403(c), 173.425(c)(1)(iii), 173.425(c)(5), 173.443(a), 174.24, 174.25, 174.45, 174.59, 174.700, 174.715, 177.807, 177.843(a), Part 172, Subparts E, and F.	To become a party to exemption 10594 (modes 1, 2).
EE 11156–P	DOT–E 11156 ..	Energetic Solutions, Inc., Dallas, TX.	49 CFR 173.212(b), 173.62.	To become a party to exemption 11156 (mode 1).
EE 11230–P	DOT–E 11230 ..	Energetic Solutions, Inc., Dallas, TX.	49 CFR 173.62(c) Packing Method US004, 177.835(g)(3)(i), 177.848(f) Table.	To become a party to exemption 11230 (mode 1).
EE 11356–X	DOT–E 11356 ..	ACM, Inc., North Chicago, IL.	49 CFR 173.121(b)(1)(iii)	To become a party to exemption 11356 (mode 1).
EE 11516–P	DOT–E 11516 ..	Madison Price Manufacturer's, Inc., Spooner, WI.	49 CFR 173.306(a)(3)	To become a party to exemption 11516 (mode 1).
EE 11516–P	DOT–E 11516 ..	Madison Price Manufacturer's, Inc., Spooner, WI.	49 CFR 173.306(a)(3)	To become a party to exemption 11516 (mode 1).
EE 11666–P	DOT–E 11666 ..	The Carbide/Graphite Group, Inc., Pittsburgh, PA.	49 CFR 173.240(b)	To become a party to exemption 11666 (mode 1).
EE 11685–P	DOT–E 11685 ..	American Pyrotechnics Assoc., Chestertown, MD.	49 CFR 173.54, 173.56	To allow the limited shipment of approved fireworks devices classed as 1.4G or 1.3G explosives that have an approved electric match (igniter) attached to the device (mode 1).
EE 11703–P	DOT–E 11703 ..	Walter Kidde Portable Equipment, Inc., Meborne, NC.	49 CFR 171.2(c), 173.301(h), 178.65.	To authorize the manufacture, marking and sale of non-DOT specification cylinders comparable to DOT Specification 39, for shipment of certain gases (mode 1).
EE 11706–N	DOT–E 11706 ..	URS Consultants, Inc., Denver, CO.	49 CFR 123	To authorize the emergency transportation for final disposition of drums containing hazardous waste, solid n.o.s., Class 9 (modes 1, 2).
EE 11709–N	DOT–E 11709 ..	Eurotainer, Somerset, NJ	49 CFR 172.102(c)(7)(ii), T–38.	To authorize the emergency transportation in commerce of Class 6.1 PIH, Zone B material to repair shop for additional insulation (mode 1).
EE 11710–N	DOT–E 11710 ..	Bayer Corp., Pittsburgh, PA.	49 CFR 173.212	To authorize the emergency transportation in commerce of an accumulator, not to exceed 400 pounds capacity, to be transported as an authorized, non-bulk shipping container for use in transporting sodium, Division 4.3 material (mode 1).
EE 11714–N	DOT–E 11714 ..	Accent Stripe, Inc.	49 CFR 173.33	To authorize the emergency transportation of non-DOT specification containers for use in transporting paint or epoxy for use in road striping (mode 1).
EE 11725–P	DOT–E 11725 ..	National Aeronautics & Space Administration (NASA), Greenbelt, MD.	49 CFR 173.301, 173.302(a), 173.304(a)(2), 173.34(d), 173.40, 175.3.	To become a party to exemption 11725 (mode 1).
EE 11741–N	DOT–E 11741 ..	Park Metallurgical Corp., Detroit, MI.	49 CFR 173.28(B)(4)	To authorize the emergency transportation in commerce of sodium cyanide mixture dry in reused metal drums, UN1A/X125/S not permanently marked to the minimum thickness criteria (mode 1).

EMERGENCY EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 11743–N	DOT–E 11743 ..	Colonial Bag Co., Lake Park, GA.	49 CFR 123	To authorize the emergency transportation in commerce of ammonium nitrate-fuel oil mixture in bags that are not mark in accordance with CFR (mode 1).
EE 11744–N	DOT–E 11744 ..	Zeneca Inc., Wilmington, DE.	49 CFR 173.243(d)	To authorize the emergency transportation of yellow phosphorous waste in specially designed portable bin of steel construction equipped with 3/8 steel plate (mode 1).
EE 11750–P	DOT–E 11750 ..	Allied Signal, Inc., Morristown, NJ.	49 CFR 173.24, 173.24, 173.301, 173.304, 178.3.	To become a party to exemption 11750 (modes 1, 2).
EE 11753–N	DOT–E 11753 ..	Ashland Chemical Co., Dublin, OH.	.....	To authorize the emergency transportation of ammonia solutions, Class 8, in UN1H1/Y1.2/150 closed head polyethylene drums that do not meet the hydrostatic test pressure requirements (mode 1).
EE 11785–N	DOT–E 11785 ..	Western Industries, Inc., Milwaukee, WI.	49 CFR 178.65(i)(2)(iii)(b).	To authorize the emergency transportation of specification 39-non-reusable (non-refillable) cylinders, that are exempt from the marking criteria (modes 1, 2, 3, 4).
EE 11787–N	DOT–E 11787 ..	Bayer Corp., Pittsburgh, PA.	49 CFR 173.226(b)(1)	To authorize the emergency transportation of toxic liquid, flammable, organic n.o.s. Division 6.1, PIH, Zone A material in 6HA1 drums that have not been hydrostatic tested to 80 psig (modes 1, 2).
EE 11788–N	DOT–E 11788 ..	North Coast Container Corp., Cleveland, OH.	49 CFR 173.28(b)(4)	To authorize the emergency reuse of 55 gallon full removable head and non-removable head steel drums that have a head thickness of 1.11 material (modes 1, 2, 3, 4, 5).

WITHDRAWAL EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
4262–X	Schlumberger Well Services, Houston, TX.	49 CFR 172.101, 173.53(u), 173.80	Authorizes the shipment of charged oil well jet perforating guns with initiators attached (mode 1).
4850–X	Halliburton Energy Services, Alvarado, TX.	49 CFR 173.56(b)(1)	Authorizes the shipment of flexible linear shaped charges, metal clad, in 100′ lengths, containing not more than 50 grams per linear foot of a high explosive (modes 1, 2, 3, 4).
6484–X	Angus Chemical Company, Buffalo Grove, IL.	49 CFR 172.101, Table, Column (8c).	Authorizes the transport of mixtures of nitromethane and various solvents in DOT Specification MC–307 or MC–312 tank motor vehicles (mode 1).
7269–X	U.S. Department of Energy, Washington, DC.	49 CFR 173.65(a)	Authorizes the use of sift-proof paper or plastic bags overpacked in DOT Specification 21C fiber drums for transportation of certain Class A explosives (mode 1).
7269–X	U.S. Department of Energy, Germantown, MD.	49 CFR 173.65(a)	Authorizes the use of sift-proof paper or plastic bags overpacked in DOT Specification 21C fiber drums for transportation of certain Division 1.1 or 1.2 materials (mode 1).
7269–P	Mason & Hanger Corporation, Amarillo, TX.	49 CFR 173.65(a)	To become a party to exemption 7269 (mode 1).
7269–P	Lockheed Martin Energy Systems, Inc., Oak Ridge, TN.	49 CFR 173.65(a)	To become a party to exemption 7269 (mode 1).
7269–P	Lockheed Martin Energy Research Corporation, Oak Ridge, TN.	49 CFR 173.65(a)	To become a party to exemption 7269 (mode 1).
7269–P	Lawrence Livermore National Laboratory, Livermore, CA.	49 CFR 173.65(a)	To become a party to exemption 7269 (mode 1).
7269–P	EG&G Mound Applied Technologies, Inc., Miamisburg, OH.	49 CFR 173.65(a)	To become a party to exemption 7269 (mode 1).
8555–X	Thiokol Corporation, Brigham City, UT.	49 CFR 173.92	Authorizes the shipment of a large rocket motor segment on a special highway vehicle (modes 1, 2).
9108–X	Sierra Chemical Co., Reno, NV	49 CFR 173.62	Authorizes the transportation of PETN wet with 25% water in 4 mil polyethylene bags placed in DOT Specification 12H65 fiberboard boxes (modes 1, 3).

WITHDRAWAL EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9184–X	The Carbide/Graphite Groups, Inc., Louisville, KY.	49 CFR 173.178	Authorizes the shipment of calcium carbide and substances which in contact with water emit flammable gases, solid n.o.s. (strontium aluminate), in polyethylene-lined woven polypropylene collapsible bags in truckload or carloard lots only (modes 1, 2).
9266–X	Compagnie Des Containers, Reservoirs, Paris, FR.	49 CFR 173.315, 178.245	Authorizes the use of non-DOT specification IMO Type 5 portable tanks for shipment of liquefied compressed gases (modes 1, 2, 3).
9666–X	Akzo Nobel Chemicals, Inc., Chicago, IL.	49 CFR 173.34 (e), Part 107, Appendix B.	Authorizes approximately 150 DOT Specifications 4BA240 and 4BW240 cylinders to be hydrostatically retested every ten years, rather than every 5 years, when used solely for the shipment of non-corrosive, metal alkyl solutions, for transportation of a flammable liquid (modes 1, 3).
9746–X	BOC Gases, San Marcos, CA	49 CFR 173.264	Authorizes the use of DOT Specification 3BN cylinders for transportation of hydrogen fluoride, anhydrous (modes 1, 3).
10135–X ...	Ciba-Geigy Corporation, Tarrytown, NY.	49 CFR 173.168	Authorizes the shipment of lithium amide, powdered, in a DOT Specification 56 portable tank (mode 1).
10513–X ...	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.154	Authorizes the use of flexible intermediate bulk containers, having a capacity of either 500 or 1000 pounds, overpacked in pallet mounted, fiberboard containers for shipment of a certain solid Division 5.1 material (mode 1).
10660–X ...	Amersham Corporation, Arlington Heights, IL.	49 CFR 172.402(a)(1), 172.403(e), 173.4(a)(1)(i–iii), 173.4(a)(1)(iv).	Authorizes the transportation of packages of hazardous materials that are labeled only for the primarty radioactive material hazard class even though the small amount of materials contained in the package also meet the definition of a secondary hazard (modes 1, 4).
10660–X ...	Sigma Chemical Company, St. Louis, MO.	49 CFR 172.402(a)(1), 172.403(e), 173.4(a)(1) (i–iii), 173.4(a)(1)(iv).	Authorizes the transportation of packages of hazardous materials that are labeled only for the primary radioactive material hazard class even though the small amount of materials contained in the package also meet the definition of a secondary hazard (modes 1, 4).
10929–X ...	Consolidated Rail Corporation, Philadelphia, PA.	49 CFR 174.67 (i) and (j)	Authorizes tank cars, containing various classes of hazardous materials to remain standing with unloading connection attached when no product is being transferred, provided that a minimal level of monitoring is maintained (mode 2).
11043–X ...	S&W Waste, Inc., South Kearny, NJ	49 CFR 177.848(D)	Authorizes the transportation of materials classed as Division 2.3 on the same transport vehicle with materials classed as Class 3, Class 4, Class 5, and Class 8 (mode 1).
11055–X ...	Rollins CHEMPAK Inc., Wilmington, DE.	49 CFR 173.226(C), 174.81, 176.83, 177.848, Part 172, Subpart E.	To authorize the transport of combination packages of Division 6.1, Packing Group I, Hazard Zone A material be shipped with other hazardous materials (modes 1, 2, 3).
11085–N ..	Union Tank Car Company, East Chicago, IN.	49 CFR 173.29(a)(2)	To authorize a one-time shipment of out-of-test DOT specification 111A100W3 rail car, containing fuel oil residue, Class 3 (mode 1).

WITHDRAWAL EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11294–X ...	Findly Chemical Disposal, Inc., Fontana, CA.	49 CFR 177.848	Authorizes the transportation of certain lab pack quantities of hazardous materials with other materials in lab packs, with partial relief from certain segregation requirements (mode1).
11302–N ..	Stolt Tank Containers Limited, Hull, North Humberside, EN.	49 CFR 178.245–1(b)	To authorize the manufacture, marking and sale of non-DOT specification cargo tanks built to DOT–51 specification equipped with modified outlets on the bottom side for use in transporting various hazardous materials classed in Division 2.1, 2.2, 2.3, and Class 3 (modes 1, 2, 3).
11530–N ..	Department of Energy, Washington, DC.	49 CFR 173.244(c)	To authorize the transportation of partially filled sodium metal storage tanks to offsite disposal processing facility (modes 1, 2).
11557–N ..	Westvaco, Richmond, VA	49 CFR 174.67(i)	To authorize rail cars to remain connected, during unloading of Class 9 material without the physical presence of an unloader (mode 2).
11577–N ..	Los Angeles Chemical Co., South Gate, CA.	49 CFR 177.848(d)	To authorize the transportation of sodium hydrosulfite, Division 4.2 in the same transport vehicle with Class 8 material (mode 1).
11584–N ..	Monsanto Co., St. Louis, MO	49 CFR 173.188	To authorize the transportation of phosphorus samples in specification packaging without the additional 4C1 wooden boxes (mode 1).
11588–P ...	Medical Waste Institute, Washington, DC.	49 CFR 173.134, 173.196, 173.197	Authorizes the offering and transportation of certain cultures and stocks of infectious substances, when described and packaged as regulated medical waste under the provisions of 49 CFR 173.134 and 173.197 subject to the HMR packaging standards of 49 CFR 173.197 (mode 1).
11638–N ..	Williamette Industries, Inc., Charlotte, NC.	49 CFR 178.522(b)(4)(5)	To authorize the transportation in commerce of corrosive or flammable liquids in non-DOT specification composite package similar to 6HG2 not to exceed 55-gallon (modes 1, 3).
11680–N ..	Citergaz, SA, 86 400 Civray, FR	49 CFR 178.245–1(b)	To authorize the manufacture, mark and sale of non-DOT specification portable tank containers similar to DOT specification 51 equipped with openings in areas other than on the top or at the end for use in transporting gases in Division 2.1 and 2.2 (modes 1, 2, 3).
11681–N ..	Citergaz SA, 86 400 Civray, FR	49 CFR 178.245–1(b)	To authorize the manufacture, mark and sale of non-DOT specification portable tank comparable to DOT Specification 51, except for the location of the openings to be used for the transportation in commerce of certain Division 2.1 and 2.2 gases (modes 1, 2, 3).
11715–N ..	CPC Specialty Markets, Indianapolis, IN.	49 CFR 172.101	To authorize the transportation in commerce of a Division 4.1 material classed as ORM–D consumer commodity (mode 1).
11716–N ..	Southchem Inc., Durham, NC	49 CFR 177.841(e)	To authorize the transportation in commerce of Division 2.3, PIH, Zone B material bearing poisonous label be transported on the same transport vehicle with foodstuffs (mode 1).
11784–N ..	U.S. Department of Energy, Oak Ridge, TN.	49 CFR 173.420 (a)(2)(i) and (c)	To authorize the transportation in commerce of residual amounts of uranium hexafluoride, fissile in solid form in modified 5A cylinders equipped with alternative valves (mode 1).

DENIALS

9001–N	Request by Chesterfield Cylinders Limited Chesterfield, Derbyshire, EN authorizes the manufacture, marking, and sale of non-DOT specification steel cylinders complying in part with DOT Specification 3T cylinders, for transportation of certain nonflammable and flammable gases denied August 7, 1996.
10986–N ..	Request by Air Products and Chemicals, Inc. Allentown, PA to authorize ultrasonic retesting of DOT-Specification 3A cylinders used for shipment of liquefied and non-liquefied compressed gases, and mixtures of two or more gases classed as Division 2.1, 2.2 and 2.3 material denied July 12, 1996.
11157–N ..	Request by Northwest Ohio Towing & Recovery Beaverdam, OH to authorize the transport of gasoline residue, Class 3, in non-DOT specification cargo tanks used in airport operations to be secured to a flat bed truck and transported to a repair facility denied August 23, 1996.
11307–N ..	Request by Jacx Enterprises Highlands, TX to authorize transportation in commerce of a DOT–111A100WI rail car with no safety relief device for use in transporting clay slurry denied July 24, 1996.
11411–N ..	Request by National Propane Gas Association Arlington, VA to authorize the transportation in commerce of more than 5 percent of propane to be transported in non-DOT specification consumer tanks denied December 9, 1996.
11450–N ..	Request by Coast Gas Inc. Bakersfield, CA to authorize the transportation in commerce of corrosive liquefied petroleum gases in internally coated MC 331 cargo tanks denied August 16, 1996.
11538–N ..	Request by Process Engineering Plaistow, NH to authorize the transportation in commerce of liquid argon, liquid oxygen and liquid nitrogen in AAR–204W tank cars equipped with 60 psig safety relief valve and 90 psig rupture disk denied December 10, 1996.
11625–N ..	Request by Exxon Chemical Co. Baytown, TX to authorize an alternative testing schedule for DOT-Specification 4BW240 cylinders from 5 to 8 years when used in corrosive service denied December 24, 1996.
11720–N ..	Request by Shell Oil Products Co. Houston, TX to authorize the transportation in commerce of various Class 3 material in MC–306/MC–406 cargo tanks not authorized for Packing Group I material denied September 30, 1996.
11734–N ..	Request by Exxon Co. Houston, TX to authorize reclassifying of certain Class 3, Packing Group I mixtures of gasoline and less hazardous petroleum products to Class 3, Packing Group II for transportation in MC–306 and MC–406 cargo tanks denied September 30, 1996.
11738–N ..	Request by Ashland Petroleum Co. Ashland, KY to authorize the transportation in commerce of mixtures of gasoline with various Packing Group II and III liquid petroleum products and fuels, Class 3 in MC–306 and MC–406 cargo tanks denied September 30, 1996.
11752–N ..	Request by Swim Chem Sacramento, CA to authorize the transportation in commerce of small quantities of chlorine for residential swimming pool maintenance to be transported with alternative placarding denied December 31, 1996.

[FR Doc. 97–16303 Filed 6–24–97; 8:45 am]

BILLING CODE 4910–60–M

Federal Register

Wednesday
June 25, 1997

Part III

National Institute for Literacy

34 CFR Part 1100

Literacy Leader Fellowship Program; Final Rule and Notice

NATIONAL INSTITUTE FOR LITERACY

34 CFR Part 1100

[CFDA No. 84.257I]

Literacy Leader Fellowship Program

AGENCY: National Institute for Literacy.

ACTION: Final regulations.

SUMMARY: The Director amends the regulations governing the Literacy Leader Fellowship Program. Under this program, the Director may award fellowships to individuals to enable them to engage in research, education, training, technical assistance, or other activities that advance the field of adult education or literacy. These amendments make changes that improve the administration of the program and also establish new priorities under the program.

DATES: These regulations take effect July 25, 1997.

FOR FURTHER INFORMATION CONTACT: Meg Young, Telephone: (202) 632–1517. E-mail: myoung@nifl.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On May 7, 1997, the Director published a notice of proposed rulemaking (NPRM) for these amendments in the **Federal Register** (62 FR 24860). The NPRM explained that the Institute has developed new areas of emphasis and that the Director believes it is necessary to address these areas in the regulations through the establishment of new priorities for the Literacy Leader Fellowship Program. The NPRM also discussed changes that the Director believes are necessary to expand the accessibility of, and to improve the overall administration of, the program. For a more detailed discussion of the issues concerning these amendments, see page 24861 of the NPRM.

Except for minor editorial and technical revisions, there are no differences between the NPRM and these final regulations.

Analysis of Comments

In response to the Director's invitation to comment in the NPRM, two parties submitted comments on the proposed regulations. Below is an analysis of the comments received and the Director's responses to the comments.

Issues are grouped according to subject, with appropriate sections of the regulations referenced in parentheses.

Eligibility for Fellowships (§ 1100.2)

Comment: The commenters favored the change that permits non-United States citizens to be eligible for fellowships. One commenter suggested that United States citizens not currently living in the United States should also be eligible for fellowships.

Discussion: Under § 1100.2(b) of the regulations, United States citizens are already eligible for fellowship awards, and a United States citizen who is living outside of the United States is not precluded from applying for an award. However, if such an individual is selected to receive a fellowship award, that individual must comply with all requirements of the program and the fellowship agreement between the Institute and the fellow, which may include carrying out all or a portion of the project at the Institute's offices in Washington, D.C. or participating in meetings and other activities at Federal agencies.

Changes: None.

Supervision of Fellows (§§ 1100.30–1100.33)

Comment: One group of commenters expressed concern about adequate control and supervision by the Institute over the fellows' activities. The commenters suggested that, in addition to the reports that the fellows must submit, there should be a periodic examination of the fellows' progress and that the Institute should also conduct visits with the fellows to confirm results. Finally, the commenters suggested that no research activity should be conducted without the Director's knowledge and approval.

Discussion: The Director believes that the regulations, as drafted, ensure the necessary amount of supervision by the Institute over a fellow's project. The regulations require that a fellow carry out all, or a portion, of the project at the Institute's offices in Washington, D.C. unless unusual circumstances exist. Further, the regulations provide that all fellowship activities are conducted under the direct or general oversight of the Institute. The regulations also state that to continue a fellowship to completion, a fellow must be making satisfactory progress as determined periodically by the Director. Finally, the application process itself and the fellowship agreement between the fellow and the Institute are sufficient to ensure that the Director has knowledge of, and has approved, any research or other activity to be carried out under the fellowship. Thus, the Director believes that the regulations already address the commenters' concerns and that no changes are needed.

Changes: None.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number assigned to the collection of information in these final regulations is displayed at the end of the affected sections of the regulations.

List of Subjects in 34 CFR Part 1100

Adult education; Grant programs—education; Reporting and recordkeeping requirements.

Dated: June 19, 1997.

Carolyn Staley,

Deputy Director, National Institute for Literacy.

(Catalog of Federal Domestic Assistance Number 84.257I, Literacy Leader Fellowship Program)

The Director amends Title 34 of the Code of Federal Regulations by revising Part 1100 to read as follows:

PART 1100—NATIONAL INSTITUTE FOR LITERACY: LITERACY LEADER FELLOWSHIP PROGRAM

Subpart A—General

Sec.

Subpart B—How Does an Individual Apply for a Fellowship?

Subpart C—How Does the Director Award a Fellowship?

Subpart D—What Conditions Must Be Met by a Fellow?

Authority: 20 *U.S.C.* 1213c(e)

Subpart A—General

§ 1100.1 What is the Literacy Leader Fellowship Program?

(a) Under the Literacy Leader Fellowship Program, the Director of the National Institute for Literacy provides financial assistance to outstanding individuals who are pursuing careers in adult education or literacy.

(b) Fellowships are awarded to these individuals for the purpose of carrying out short-term, innovative projects that contribute to the knowledge base of the adult education or literacy field.

(c) Fellowships are intended to benefit the fellow, the Institute, and the national literacy field by providing the fellow with the opportunity to interact with national leaders in the field and make contributions to federal policy initiatives that promote a fully literate adult population.

§ 1100.2 Who is eligible for a fellowship?

(a) Only individuals are eligible to be recipients of fellowships.

(b) To be eligible for a fellowship under this program, an individual must be—

(1) A citizen or national of the United States, or a permanent resident of the United States, or an individual who is in the United States for other than temporary purposes and intends to become a permanent resident;

(2) Eligible for Federal assistance under the terms of 34 CFR 75.60 and 75.61; and

(3) Either a literacy worker or an adult learner.

(c) An individual who has received a fellowship award in a prior year is not eligible for another award.

(d) Several individuals may apply jointly for one award, if each individual will contribute significantly to the proposed project and if the proposed project will develop leadership for each individual.

§ 1100.3 What types of project may a fellow conduct under this program?

(a) Under the auspices of the Institute, and in accordance with the Fellowship Agreement, a Literacy Leader Fellow may use a fellowship awarded under this part to engage in research, education, training, technical assistance, or other activities that advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

(b) A Literacy Leader Fellow may not use a fellowship awarded under this part for any of the following:

(1) Tuition and fees for continuing the education of the applicant where this is the sole or primary purpose of the project.

(2) Planning and implementing fundraisers.

(3) General program operations and administration.

(4) Activities that otherwise do not meet the purposes of the Literacy Leader Fellowship program, as described in paragraph (a) of this section.

§ 1100.4 What regulations apply?

This program is governed by the regulations in this part and the following additional regulations:

34 CFR 74.36, Intangible property;
34 CFR 75.60, Individuals ineligible to receive assistance;
34 CFR part 85, Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

§ 1100.5 What definitions apply?

(a) The definitions in 34 CFR 77.1, except that the definitions of ''Applicant'', ''Application'', ''Award'', and ''Project'' do not apply to this part.

(b) Other definitions. The following definitions also apply to this part:

Adult learner means an individual over 16 years old who is pursuing or has completed some form of literacy or basic skills training, including preparation for the G.E.D.

Applicant means an individual (or more than one individual, if applying jointly) requesting a fellowship under this program.

Application means a written request for a fellowship under this program.

Award means an amount of funds provided for fellowship activities.

Board means the National Institute for Literacy's advisory board established pursuant to section 384(f) of the Adult Education Act (20 U.S.C. 1213c(f)).

Director means the Director of the National Institute for Literacy.

Fellow means a recipient of a fellowship.

Fellowship means an award of financial assistance made by the Institute to an individual pursuant to section 384(e) of the Adult Education Act (20 U.S.C. 1213c(e)) to enable that individual to conduct research or other authorized literacy activities under the auspices of the Institute.

Fellowship Agreement means a written agreement entered into between the Institute and a fellow, which, when executed, has the legal effect of obligating the fellowship award, and which states the rights and obligations of the parties.

Institute means the National Institute for Literacy.

Literacy worker means an individual who is pursuing a career in literacy or adult education or a related field and who either has a minimum of five years of relevant academic, volunteer or professional experience in the literacy, adult education, or related field, or has made a significant contribution to, or notable progress in, the field. Relevant experience includes teaching, policymaking, administration, or research.

Project means the work to be engaged in by the fellow during the period of the fellowship.

Research means one or more of the following activities in literacy or education or education related fields: basic and applied research, planning, surveys, assessments, evaluations, investigations, experiments, development and demonstrations.

§ 1100.6 What priorities may the Director establish?

The Director may, through a notice published in the **Federal Register**, select annually one or more priorities for funding. These priorities may be chosen from the areas of greatest immediate concern to the Institute and may include, but are not limited to, the following areas:

(a) *Developing leadership in adult learners.* Because adult learners are the true experts on literacy, they are an important resource for the field. Their firsthand experience as ''customers'' of the literacy system can be invaluable in assisting the field in moving forward, particularly in terms of raising public awareness and understanding about literacy.

(b) *Expanding the use of technology in literacy programs.* One of the Institute's major projects is the Literacy Information aNd Communication System (LINCS), an Internet-based information system that provides timely information and abundant resources to the literacy community. Keeping the literacy community up to date in the Information Age is vital.

(c) *Improving accountability for literacy programs.* Literacy programs must develop accountability systems that demonstrate their effectiveness in helping adult learners contribute more fully in the workplace, family and community. There is growing interest in

results-oriented literacy practice, especially as related to the Equipped for the Future (EFF) framework.

(d) *Raising public awareness about literacy.* The Institute is leading a national effort to raise public awareness that literacy is part of the solution to many social concerns, including health, welfare, the economy, and the well-being of children. Projects that enhance this effort will be given priority consideration.

Subpart B—How Does an Individual Apply for a Fellowship?

§ 1100.10 What categories of fellowships does the Institute award?

The Institute awards two categories of Literacy Leadership Fellowships:

(a) Literacy Worker Fellowships; and

(b) Adult Learner Fellowships.

§ 1100.11 How does an individual apply for a fellowship?

An individual shall apply to the Director for a fellowship award in response to an application notice published by the Director in the **Federal Register**. The application must describe a plan for one or more of the activities stated in § 1100.3 that the applicant proposes to conduct under the fellowship. The application must indicate which category of fellowship, as described in § 1100.10, most accurately describes the applicant. Applicants must also submit four letters of recommendation and certain forms, assurances and certifications, including the certification required under 34 CFR 75.61. (Approved by the Office of Management and Budget under OMB Control Number 3430–0003, Expiration Date 6/30/2000.)

§ 1100.12 What applications are not evaluated for funding?

The Director does not evaluate an application if—

(a) The applicant is not eligible under § 1100.2;

(b) The applicant does not comply with all of the procedural rules that govern the submission of applications for Literacy Leader Fellowship funds;

(c) The application does not contain the information required by the Institute;

(d) The application proposes a project for which a fellow may not use fellowship funds, as described in § 1100.3(b).

(e) The application is not submitted by the deadline stated in the application notice.

Subpart C—How Does the Director Award a Fellowship?

§ 1100.20 How is a fellow selected?

(a) The Director selects applications for fellowships on the basis of the selection criteria in § 1100.21 and any priorities that have been published in the **Federal Register** and are applicable to the selection of applications.

(b)(1) The Director may use experts from the literacy field to rank applications according to the selection criteria in § 1100.21, and then provide the top-ranked applications to the Institute's Advisory Board.

(2) The Institute's Advisory Board evaluates these applications based on the selection criteria in § 1100.21 and makes funding recommendations to the Director.

(3) The Director then determines the number of awards to be made in each fellowship category and the order in which applications will be selected for fellowships, based on the initial rank order, recommendations by the board, and any other information relevant to any of the selection criteria, applicable priorities, or the purposes of the Literacy Leader Fellowship Program, including whether the selection of an application would increase the diversity of fellowship projects under this program.

§ 1100.21 What selection criteria does the Director use to rate an applicant?

The Director uses the following criteria in evaluating each applicant for a fellowship:

(a) *Quality of plan.* (45 points) The Director uses the following criteria to evaluate the quality of the proposed project:

(1) The proposed project deals with an issue of major concern to the literacy field.

(2) The design of the project is strong and feasible.

(3) The project addresses critical issues in an innovative way.

(4) The plan demonstrates a knowledge of similar programs and an intention, where appropriate, to coordinate with them.

(5) The applicant describes adequate support and resources for the project.

(6) The plan includes evaluation methods to determine the effectiveness of the project.

(7) The project results are likely to contribute to the knowledge base in literacy or adult education, and to federal policy initiatives in these or related areas.

(8) The project will enhance literacy or adult education practice.

(9) The project builds research capacity or improves practice within the field.

(b) *Qualifications of applicant.* (25 points) The Director uses the following criteria to evaluate the qualifications of the applicant:

(1) The applicant has a strong background in the literacy field. [Include all relevant experience, which may include experience as a volunteer or an adult learner.]

(2) The applicant has expertise in the proposed area of the project.

(3) The applicant has demonstrated the ability to complete a quality project or has shown leadership in this area.

(4) The applicant provides letters of recommendation that show strong knowledge by others in the literacy field of the applicant's background and past work.

(c) *Relevance to the Institute.* (10 points) The Director uses the following criteria to evaluate the relevance of the applicant's proposal to the Institute:

(1) The project significantly relates to the purposes and work of the Institute.

(2) The applicant proposes to spend a significant portion of the project time at the Institute, taking into account the nature and scope of the proposed project.

(d) *Dissemination plan.* (10 points) The Director uses the following criteria to evaluate the quality of the dissemination plan:

(1) The applicant clearly specifies what information will be made available to the field and how this information will further the efforts of the field.

(2) The applicant describes how this information will be shared with the field (e.g., print, on-line, presentations, video, etc.).

(e) *Budget.* (10 points) The Director uses the following criteria to evaluate the budget:

(1) The budget will adequately support the project.

(2) The costs are clearly related to the objectives of the project.

(3) The budget is cost effective.

(4) The budget narrative clearly describes the budget and how costs are calculated.

§ 1100.22 How does the Director determine the amount of a fellowship?

The amount of a fellowship includes—

(a) A stipend, not to exceed $30,000, based on—

(1) The fellow's current annual salary, prorated for the length of the fellowship salary reimbursement; or

(2) If a fellow has no current salary, the fellow's education and experience; and

(b) A subsistence allowance, materials allowance (covering costs of materials and supplies directly related to the completion of the project), and travel expenses (including expenses to attend quarterly meetings in Washington, DC) related to the fellowship and necessary to complete the scope of work outlined in the proposal, consistent with Title 5 U.S.C. chapter 57.

§ 1100.23 What payment methods may the Director use?

(a) The Director will pay a fellowship award directly to the fellow or through the fellow's employer. The application should specify if the fellow wishes to be paid directly or through the fellow's employer.

(b) The Director considers the preferences of the fellow in determining whether to pay a fellowship award directly to the fellow or through the fellow's employer; however, the Director pays a fellowship award through the fellow's employer only if the employer enters into an agreement with the Director to comply with the provisions of § 1100.25.

§ 1100.24 What are the procedures for payment of a fellowship award directly to the fellow?

(a) If the Director pays a fellowship award directly to the fellow after the Director determines the amount of a fellowship award, the fellowship recipient shall submit a payment schedule to the Director for approval. The Director advises the recipient of the approved schedule.

(b) If a fellow does not complete the fellowship, or if the Institute terminates the fellowship, the fellow shall return to the Director a prorated portion of the stipend and any unused substance and materials allowance and travel funds at the time and in the manner required by the Director.

§ 1100.25 What are the procedures for payment of a fellowship award through the fellow's employer?

(a) If the Director pays a fellowship award through the fellow's employer, the employer shall submit a payment schedule to the Director for approval.

(b) The employer shall pay the fellow the stipend, subsistence and materials allowance, and travel funds according to the payment schedule approved by the Director. If the fellow does not complete the fellowship, the fellow shall return to the employer a prorated portion of the stipend and any unused subsistence and materials allowance and travel funds. The employer shall return the funds to the Director at the time and in the manner required by the Director. The employer shall also return to the Director any portion of the stipend, subsistence and materials allowance and travel funds not yet paid by the employer to the fellow.

Subpart D—What Conditions Must be Met by a Fellow?

§ 1100.30 Where may the followship project be conducted?

(a) A fellow carries out all, or a portion of, the fellowship project at the National Institute for Literacy in Washington, D.C. If the Director determines that unusual circumstances exist, the Director may authorize the fellow to carry out all of the project elsewhere.

(b) Office space and logistics will be provided by the Institute.

(c) The fellow may also be required to participate in meetings, conferences and other activities at the Departments of Education, Labor, or Health and Human and Services, in Washington, D.C., or in site visits to other locations, if deemed appropriate for the project being conducted.

§ 1100.31 Who is responsible for oversight of fellowship activities?

(a) All fellowship activities are conducted under the direct or general oversight of the Institute. The Institute may arrange through written agreement for another Federal agency, or another public or private nonprofit agency or organization that is substantially involved in literacy research or services, to assume direct supervision of the fellowship activities.

(b) Fellows may be assigned a peer mentor to orient them to the Federal System and Institute procedures.

§ 1100.32 What is the duration of a fellowship?

(a) The Institute awards fellowships for a period of at least three and not more than 12 months of full-time or part-time activity. An award may not exceed 12 months in duration. The actual period of the fellowship will be determined at the time of award based on proposed activities.

(b) In order to continue the fellowship to completion, the fellow must be making satisfactory progress as determined periodically by the Director.

(c) A fellowship may be terminated under the terms of 34 CFR 74.61.

§ 1100.33 What reports are required?

(a) A fellow shall submit fellowship results to the Institute in formats suitable for wide dissemination to policymakers and the public. These formats should include, as appropriate to the topic of the fellowship and the intended audience, articles for academic journals, newspapers, and magazines.

(b) Each fellowship agreement will contain specific provisions for how, when, and in what format the fellow will report on results, and how and to whom the results will be disseminated.

(c) A fellow shall submit a final performance report to the Director no later than 90 days after the completion of the fellowship. The report must contain a description of the activities conducted by the fellow and a thorough analysis of the extent to which, in the opinion of the fellow, the objectives of the project have been achieved. In addition, the report must include a detailed discussion of how the activities performed and results achieved could be used to enhance literacy practice in the United States. (Approved by the Office of Management and Budget under OMB Control Number 3430–0003, Expiration Date 6/30/2000.)

[FR Doc. 97–16495 Filed 6–24–97; 8:45 am]

BILLING CODE 6055–01–M

NATIONAL INSTITUTE FOR LITERACY

[CFDA NO. 84.257I]

Literacy Leader Fellowship Program

AGENCY: National Institute for Literacy.

ACTION: Notice.

Purpose of Program: The Literacy Leader Fellowship Program is designed to provide Federal financial assistance to adult learners and to individuals pursuing careers in adult education or literacy in the areas of instruction, research, or innovation. Under the program, literacy workers and adult learners are applicants for fellowships.

Deadline for Transmittal of Applications: Applications must be received at the National Institute for Literacy no later than 4:30 p.m. August 4, 1997.

Available Funds: $140,000.

Estimated Range of Awards: $30,000–$50,000.

Estimated Average Size of Awards: $35,000.

Estimated Number of Awards: 4.

Note: The National Institute for Literacy is not bound by any estimates in this notice.

Project Period: Projects will be not less than three and no more than 12 months of full or part-time activity.

Applicable Regulations: The regulations governing the National Institute for Literacy's Literacy Leader Fellowship Program as published in this issue of the **Federal Register**.

While the Institute is administered by an Interagency agreement with the U.S. Departments of Education, Labor, and Health and Human Services, the specific policies and procedures of these agencies regarding rulemaking and administration of grants are not adopted by the Institute except as expressly stated in this Notice and in the regulations.

Transmittal of Applications: An original and seven (7) copies of applications for award must be received by the Institute on or before the deadline date of August 4, 1997.

Applications delivered by mail: Applications sent by mail must be addressed to National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006, Attention: (CFDA#84.257I).

An applicant is encouraged to use registered, certified, or first-class mail.

Late applicants will be notified that their applications will not be considered, and their applications will be returned.

Applications delivered by Hand: Applications that are hand-delivered must be taken to the National Institute for Literacy, 800 Connecticut Avenue, NW., Suite 200, Washington, DC.

The Institute will accept hand-delivered applications between 8:30 a.m. and 5:00 p.m. (Washington, DC time) daily, except Saturdays, Sundays and Federal holidays. Applications that are hand-delivered will not be accepted by the Institute after 4:30 p.m. on the due date.

Acknowledgment of Applications: The Institute will mail an Applicant Receipt Acknowledgment to each applicant within 15 days from the due date. If an applicant fails to receive the application acknowledgement, call the National Institute for Literacy at (202) 632–1525.

The applicant must indicate on the outside of the envelope the CFDA number of the competition under which the application is being submitted.

Application Forms: Applicants are required to submit the following forms, assurances and certifications:

(a) Application Information and Budget Summary (NIFL Form No. 001)

(b) Assurances—Non-Construction Programs (Standard Form 424B).

(c) Certification Regarding Lobbying: Debarment, Suspension, and other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

(d) Disclosure of Lobbying Activities (Standard Form LLL) (if applicable); and

(e) Certification of Eligibility for Federal Assistance in Certain Programs (ED 80–0016)

The NIFL form, assurances, and certifications must each have an original signature. No award can be made unless these forms are submitted.

Prescribed Format: Applicants will also be required to submit a proposal narrative. The narrative should be no more than 8 pages in length. The narrative format is described in the Literacy Leader Fellowship Application package. Applicants should also submit a resume, budget narrative, and four letters of recommendation.

Priorities: (a) The Director invites applications for Literacy Leader Fellowships that meet the priorities for 1997.

(b) The priorities for 1997 are major areas of concern in the literacy field that are currently being addressed in the Institute's work.

(c) An application may be awarded up to 5 bonus points for addressing a priority or priorities, depending on how well the application meets the priority or priorities.

(d) The publication of these priorities does not bind the Institute to fund only applications addressing priorities. The Director is especially interested in fellowship applications that address one or more of the priorities, but not to the exclusion of other significant issues that may be proposed by applicants.

(e) The priorities selected from the regulations for 1997 are as follows:

(1) *Developing Leadership in Adult Learners*. Because Adult learners are the true experts on literacy, they are an important resource for the field. Their firsthand experience as ''customers'' of the literacy system can be invaluable in assisting the field in moving forward, particularly in terms of raising public awareness and understanding about literacy. Projects that enhance best practices or the adult learner network will be given priority consideration.

(2) *Expanding the Use of Technology in Literacy Programs*. One of the NIFL's major projects is the Literacy Information and Communication System (LINCS), an Internet based information system that provides timely information and abundant resources to the literacy community. Keeping the literacy community up to date in the information age is vital. Projects that improve or increase use of technology will be given priority consideration.

(3) *Improving Accountability for Literacy Programs*. Legislation that has passed both houses of the U.S. Congress emphasizes that literacy programs must develop accountability systems that demonstrate their effectiveness in helping adult learners contribute more fully in the workplace, family and community. Projects that focus on results-oriented literacy practice, especially as related to the Equipped for the Future (EFF) framework, are a priority.

(4) *Raising Public Awareness about Literacy*. The NIFL is leading a national effort to raise public awareness that literacy is part of the solution to many social concerns, including the well-being of children, health, welfare and the economy. Projects that enhance this effort will be given priority consideration.

SUPPLEMENTARY INFORMATION: National Educational Goal 6, which is included in the Goals 2000: Educate America Act, puts forward an ambitious agenda for adult literacy and lifelong learning in America. To further this goal, the Congress passed Public Law 102–73, the National Literacy Act of 1991, which is the first piece of national legislation to focus exclusively on literacy. The overall intent of the Act, as stated, is:

> To enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives and to strengthen and coordinate adult literacy programs.

In designing the Act, among the primary concerns shared by the Congress and literacy stakesholders was the fragmentation and lack of coordination among the many efforts in the field. To address these concerns, the Act created the National Institute for Literacy to:

(A) provide a national focal point of research, technical assistance, and research dissemination, policy analysis and program evaluation in the area of literacy; and

(B) facilitate a pooling of ideas and expertise across fragmented programs and research efforts.

Among the Institute's authorized activities is the awarding of fellowships to outstanding individuals who are pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation. These fellowships are to be awarded for activities that advance the field of adult education and literacy.

FOR FURTHER INFORMATION CONTACT: Meg Young, National Institute for Literacy, 800 Connecticut Avenue, N.W., Suite 200, Washington, DC 20006. Telephone: 202/632–1517, Fax: 202/632–1512. E-mail: myoung@nifl.gov. To receive an application package, please contact Darlene McDonald at the same address: Telephone: 202/632–1517, E-mail: dmcdonald@nifl.gov.

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Program Authority: 20 U.S.C. 1213c.

Dated: June 17, 1997.

Carolyn Staley,

Deputy Director, NIFL.

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